



Stage 3 briefing

Crofting and Scottish Land Court Bill

March 2026



Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Crofting law has developed over time in a piecemeal fashion and is unique to Scotland. It is generally considered to be a complex and difficult area of the law, made particularly so by the combination of the law relating to property and that relating to landlord and tenant matters. Crofting law may now be considered to be out-dated in many aspects and in need of reform.

The Crofting and Scottish Land Court Bill (“the Bill”) was introduced by Jim Fairlie MSP, the Minister for Agriculture and Connectivity, on 2 June 2025.¹ We submitted written evidence,² and provided oral evidence on 8 October 2025,³ to the Rural Affairs and Islands Committee of the Scottish Parliament (“the lead committee”) as part of its Stage 1 consideration of the Bill. The lead committee’s Stage 1 Report on the Bill (“the Stage 1 Report”)⁴ was published on 19 December 2025. The Parliament approved the general principles of the Bill on 8 January 2026. We distributed proposed amendments to MSPs on the lead committee on 26 January 2026 ahead of Stage 2 commencing on 4 February 2026.⁵ The Bill completed Stage 2 on 11 February 2026, and the Bill as amended at Stage 2 was published on the same date.⁶

We welcome the opportunity to consider and provide comment on the amended Bill ahead of Stage 3 proceedings scheduled for 19 March 2026.

¹ [Crofting and Scottish Land Court Bill as introduced](#)

² [Crofting and Scottish Land Court Bill - Written Evidence](#)

³ [Rural Affairs and Islands Committee | Scottish Parliament TV](#)

⁴ [Stage 1 report on the Crofting and Scottish Land Court Bill | Scottish Parliament](#)

⁵ [Crofting and Scottish Land Court Bill- Stage 2 amendments and effect](#)

⁶ [Crofting and Scottish Land Court Bill as amended](#)



Executive Summary

We have long identified crofting law as a priority area for reform. Following a public consultation which ran from February to May 2020, we issued our full report into crofting law reform in October 2020 and called on the Scottish Government to take prompt action to effect legislative change.⁷ We have also been participants in the Scottish Government's Crofting Law Working Group and previously responded to the Scottish Government's consultation: *Crofting Consultation 2024: Proposals for Crofting Law Reform*.⁸ We therefore welcome the introduction of the Crofting and Scottish Land Court Bill as a means to achieve the necessary reforms, and welcome the opportunity to consider and provide comment on the Bill ahead of the Stage 3 debate scheduled for 11 March 2026. Our briefing includes the following key points:

- We welcome this Bill as a means to modernise and simplify crofting law.
- We welcome amendments made at Stage 2, including those that recognise our concerns highlighted at Stage 1.
- We make a number of specific comments on sections of the Bill, including areas where we consider the provisions of the Bill could be further clarified—including by further amendment where appropriate.

Where we have not commented on a section, this is because there were no changes made at Stage 2.

Part 1- amendments to main crofting laws

Part 1 of the Bill reforms the Crofters (Scotland) Act 1993 and Crofting Reform (Scotland) Act 2010, focusing on nine key areas:

- Environmental use of crofts: The Bill enables crofters to utilise croft land for environmental uses. We welcome amendments made at Stage 2 to better define “environmental use” and provide exclusions for renewable energy.
- Crofting Communities: The Bill provides a definition of a crofting community, including which individuals can be counted as part of a community, and strengthens the role of communities in reporting problems such as neglect of duties. We are supportive of the introduction of the definition of a crofting community. The Bill also allows more individuals (e.g. landlords and

⁷ [Crofting Law Paper- Law Society of Scotland, 2020](#)

⁸ [Crofting Consultation 2024: Proposals for Crofting Law Reform](#)



subtenants) to report suspected breaches of duty to the Crofting Commission that must be investigated.

- **Enforcement of Crofters' Duties:** The Bill streamlines the administration of the crofter's duties and gives the Crofting Commission more power to enforce the rules and prevent crofts being transferred to companies or charities.
- **Crofting Commission Powers:** The Bill provides the Crofting Commission with greater independence and several new powers to resolve issues and confirm crofter status where appropriate. This includes a new and simplified consent process for assignments of crofts, which we welcome.
- **Owner-Occupier definition:** The Bill provides for a definition of owner-occupier and a restriction on ownership of owner-occupied crofts to individuals. We welcome the introduction of a definition of owner-occupier crofts and welcome the clear exclusion of non-natural persons from being owner-occupier crofters.
- **Common Grazings:** The Bill introduces various changes to Common Grazing and Common Grazing Committees, including the creation of a new two-Stage process for obtaining consent, from the landlord and the Commission, to use Common Grazing as woodlands or for an environmental purpose (including peatland restoration, habitat creation and restoration, water management and preserving, protecting, restoring, enhancing or otherwise improving natural heritage or environment). It also prevents important grazing rights being unintentionally lost when land is sold. We recognise and welcome that the Scottish Government brought forward amendments at Stage 2 to provide further clarity.
- **Crofting Register:** The Bill introduces provisions that aim to refine the process and make it easier to fix errors regarding the crofting registration system. The Bill also reforms the respective roles of the Registers of Scotland and the Crofting Commission in handling applications for registration.
- **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.



- Simplifications and Clarifications: The Bill also “tidies up” the law to make it clearer, including how Commissioners are appointed and fixing known legal inconsistencies. We are generally supportive of these provisions.

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 body, keeping the name of the Scottish Land Court.

We previously stated our opposition to this proposal but understand the persuasive argument for amalgamating the Land Court and the Lands Tribunal due to the potential savings in administrative costs and alignment of the membership.

We consider it vital that the Court is properly resourced and that access to justice is maintained for all parties.

Part 3

Part 3 of the Bill contains general provisions.



Chapter 1

General Comments

We welcome the introduction of the Bill. The Bill covers two main policy areas: reforms to crofting law and the amalgamation of the Land Court and the Lands Tribunal of Scotland. We note that the first area deals with topics that we identified in our report into crofting law reform.

In our previous work on crofting law, we identified a limited number of specific aspects of the law relating to crofting that merited further consideration and proposed reforms pertaining to each area, being:

- 1) Aspects of succession
- 2) Owner occupier status
- 3) Statutory conditions of tenure
- 4) Definition of ‘crofting community’

We recognise and welcome that the Scottish Government has brought forward several of our proposed reforms as part of this Bill.

We generally highlight the ongoing and prospective legislative and policy reform within the wider legal landscape. For example, legislation which interacts with aspects of the Bill currently before the Parliament or being implemented includes the Natural Environment (Scotland) Bill and the Land Reform (Scotland) Act 2025, the Wildlife Management and Muirburn (Scotland) Act 2024, the Agriculture and Rural Communities (Scotland) Act 2024 and the Climate Change (Emissions Reduction Targets)(Scotland) Act 2024. We highlight the importance of considering the legal interplay and overlap between such legislation to ensure a consistent and aligned approach, and of ensuring that these do not contradict or conflict with one another. We also highlight the importance of ensuring that secondary legislation stemming from such legislation is given ample time to be scrutinised by the Scottish Parliament, to allow for their impact on niche areas of law - such as crofting law - to be fully considered by Scottish Ministers and MSPs.

We also highlight that many other wider, non-legal factors, will impact on the operation and deliverability of the proposals, for example ensuring appropriate resourcing and capacity, expertise, and the availability of data. This includes the importance of appropriate resourcing and prioritisation in the context of effective monitoring and enforcement. We welcome the renewed focus of policy and resources by the Crofting Commission (“the Commission”) on enforcement and reiterate the lead committee’s request that the Scottish Government maintains its support and resourcing of the Commission.⁹

⁹ Stage 1 report on the Crofting and Scottish Land Court Bill, page 9



Following Stage 2, we consider that the Bill needs further amendment at Stage 3 on a range of issues and we therefore highlight and welcome the following amendments:

- Amendment 1 in the name of Beatrice Wishart MSP
- Amendment 6 in the name of Alasdair Allan MSP
- Amendment 26 in the name of Jim Fairlie MSP
- Amendment 27 in the name of Jim Fairlie MSP
- Amendment 30 in the name of Jim Fairlie MSP
- Amendment 31 in the name of Jim Fairlie MSP
- Amendment 42 in the name of Rhoda Grant MSP
- Amendment 51 in the name of Edward Mountain MSP
- Amendment 52 in the name of Edward Mountain MSP
- Amendment 53 in the name of Edward Mountain MSP
- Amendment 54 in the name of Edward Mountain MSP
- Amendment 55 in the name of Edward Mountain MSP

Part 1- Crofting Reform

Section A1

This section was inserted by amendment at Stage 2 to add the enforcement of statutory duties to the general functions of the Commission.

We consider this an appropriate addition as it provides a proportionate means for the Commission to respond to non-compliance.

Section 1

Section 1 amends duties for crofters under the Crofters (Scotland) Act 1993 (“the 1993 Act”) to allow a third, distinct option for croft land: environmental use.

Under this section, tenant crofters will no longer need landlord or Commission consent to put their land to environmental use. Environmental use must be planned and managed and must not adversely affect adjoining land.

Section 1 was subject to several amendments at Stage 2.

This section was amended at Stage 2 to provide that crofters and owner-occupier crofters are not treated as breaching the standards of good agricultural and environmental condition if an environmental or purposeful use is incompatible with the requirements under sections 5B and 19C of the Crofters (Scotland) Act 1993.

The existing definition of “purposeful use” was altered to bring it in line with the new definition of environmental use in relation to active management of land. We

consider this an appropriate amendment as this ensures that the provisions of the Bill are aligned.

The section was also amended to require a crofter to actively manage their land with the intention of providing environmental benefit and that environmental use must not adversely affect the croft. We welcome this amendment as this ensures that crofts stay in active use.

The section was amended exclude energy generation, transmission and storage from being classified as environmental use. That would not prohibit energy generation on a croft, but it would prohibit it from being termed “environmental use”. We consider this an appropriate and proportionate amendment.

The section was further amended to allow Ministers to specifically exclude items from the list of purposes that are considered to be environmental use under their regulation-making powers. We consider this an appropriate and proportionate amendment.

We highlight that the provisions in the Bill surrounding environmental use are a useful means of ensuring that the crofting sector is empowered to keep up with policy and legislative developments around nature and climate.

We note that the Bill was amended at Stage 2 to allow crofters to fulfil their duties under section 5C(2) of the 1993 Act with the assistance of family members or hired labour. This provides certainty with regard to the involvement of family members and hired labours. We welcome this amendment, as suggested in our Stage 1 briefing and amendments distributed to the lead committee during Stage 2.

We further note that amendment 1 in the name of Beatrice Wishart MSP would enable owner-occupier crofters to fulfil their duties with family members or hired help.¹⁰ We are supportive of this amendment, as this aligns with our earlier proposed amendment that was inserted at an earlier point in the section at Stage 2 to allow crofters to fulfil their duties with family members or hired help and ensures that the provisions for owner-occupier crofters are consistent with provisions for all other crofters.¹¹

Section 3

Section 3 widens the range of individuals who can report suspected breaches of crofting duties that the Commission is obliged to investigate and reduces the reporting burden for grazing committees.

This section was amended at Stage 2 to allow the Commission to consider whether it has previously determined that the individual has provided information

¹⁰ [Daily list of amendments for 2 March 2026](#), amendment 1

¹¹ [Crofting and Scottish Land Court Bill- Stage 2 amendments and effect](#)



that was frivolous or vexatious when assessing whether new information is frivolous or vexatious.

We have no specific comments regarding these proposals.

Section 4

Section 4 of the Bill as introduced replaced sections 26C and 26D of the 1993 Act with four new sections (26C, 26D, 26DA and 26DB) which aim to streamline the enforcement process where the Commission believes a crofter is failing to meet their duties and give the Commission clearer powers to manage how breaches are handled. We note that the lead committee supported the proposals under this section at Stage 1.¹²

Section 4 was subject to amendment at Stage 2. The proposed new section 26DB of the 1993 was removed, with some aspects of this transferred to the proposed section 26D.

Section 4 was also amended to provide that when the Commission has a suspected breach of duty notice and then chooses to decline to do anything with a regulatory application that the person has an interest in, the Commission must notify the applicant of its decision. The amended section 4 provides for the standard timescales and grounds of appeal to any appeals against a decision of the commission to decline to do anything with an application.

Section 4 was further amended to enable the Commission to treat a breach of grazing regulations in the same manner as it treats a suspected breach of duty when considering whether to process a regulatory application or decline to do anything.

We have no specific comments to make for the purpose of this briefing.

Section 5

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

This section was amended at Stage 2 to allow for Commission orders made under this section and on an application made under the provisions of the 1993 Act to be subject to appeal to the Land Court.

We have no specific comments to make for the purpose of this briefing.

¹² [Stage 1 report on the Crofting and Scottish Land Court Bill](#), page 17



Section 6A

This section was inserted by amendment at Stage 2. This section inserts a new section 59B into the 1993 Act, giving the Scottish Ministers a regulation-making power to confer upon the Commission the power to impose and collect monetary penalties on persons for non-compliance with specified duties under the 1993 Act. The power also enables the Scottish Ministers to repeal or adjust existing criminal offences relating to those duties and to make such further provision as they consider appropriate in connection with the imposition and collection of such penalties

We note that the powers introduced under this section are subject to the affirmative procedure.¹³ We consider this level of scrutiny appropriate.

Section 8

Section 8 of the Bill introduces a streamlined process for assignments to family members, in certain circumstances. We welcome the introduction of these provisions.

This section was amended at Stage 2 to require the Commission to check whether a croft has been let by the Commission and if it is subject to the 10-year restriction on assignment before consenting to a family assignment application.

This section was also amended at Stage 2 to change the sequence of the application for a family assignment. The amended section would now require the crofter to serve a copy of the family assignment application to the landlord at the same time as they submit their application to the commission and to indicate to their landlord that they have 28 days to make any representations directly to the commission.

We have no specific comments to make for the purpose of this briefing.

Section 8A

This section was inserted by amendment at Stage 2.

The new section 8A creates a direct route for a landowner who creates a new croft to become its owner-occupier crofter, which is a simplification of the current process. The new section provides that when someone makes an application to the commission to create a new croft, they will have to indicate their intent to become the owner-occupier crofter. The application will be treated as a single composite application so that the package is either accepted in full by the commission or rejected in full.

¹³ [Supplementary Delegated Powers Memorandum accessible](#) page 3



We have no specific comments to make for the purpose of this briefing.

Section 9

Section 9 of the Bill makes several amendments to the 1993 Act aimed at clarifying and expanding the routes by which a person may be recognised as an owner-occupier crofter.

We generally welcome the provisions of section 9.

Section 9 was amended at Stage 2 to align the section with the newly proposed section 8A and to ensure that a crofting community has the opportunity to object when an owner of a vacant croft applies to the commission for owner-occupier status, bringing such application in line with the provisions applied to other applications, so that the commission must first consider any objections before deciding whether to approve an application.

Section 9 was also amended to provide the Scottish Ministers a general power to make provision by regulation about transfers of owner-occupied crofts.

Section 9 was further amended to explicitly exempt non-natural persons. We proposed introducing this explicit exemption in our Stage 1 briefing and in our distributed amendments to the lead committee at Stage 2¹⁴ and welcome the amendment of the Bill to achieve this.

Section 9 was further amended to remove 19BA(3) from the proposed section 19BA of the 1993 Act. We welcome this amendment as this acts as equivalent to our earlier suggested amendment at Stage 2 which was aimed at ensuring applicants for owner-occupier status were in compliance with statutory crofting duties. We consider that this amendment provides that, by ensuring that the full section 58A process will apply to the Commission's decisions to confer owner-occupier status on a landlord of a vacant croft. As this requires the Commission to take into account whether the applicant is adhering to the duties, this achieves our aim.

Section 10A

This section was inserted by amendment at Stage 2. Section 10A would provide a power for the Scottish Ministers to introduce regulation of transfers of owner-occupied crofts, subject to appropriate consultation with the Commission, representatives of crofters and owner-occupier-crofters and any such other appropriate persons.

We note that this power is subject to the affirmative procedure and consider this appropriate.

¹⁴ [Crofting and Scottish Land Court Bill- Stage 2 amendments and effect](#)



We highlight amendment 6 in the name of Alasdair Allan MSP.¹⁵ We welcome this amendment and consider it useful in allowing the provisions in section 15 added at stage 2 to be worked out and more fully consulted upon at a later date.

Section 11

Section 11 introduces a restriction on the ability of a new tenant, selected by the Commission under the assignation process, 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 assignation or acquisition may still be submitted during this period but cannot take effect until the 10-year period has expired.

This section was amended at Stage 2 to allow the Commission and the Land Court discretion to waive the 10-year ban in exceptional circumstances. Those circumstances could include

- someone becoming unwell and being unable to work the croft anymore, or
- a change of circumstances that leads to them having to leave and being in breach of their obligations under the crofting acts.¹⁶

In such circumstances, the Commission and the Land Court are empowered to examine the individual circumstances and waive the requirement if necessary.

We welcome this amendment, as we identified in our Stage 1 briefing that the approach in the Bill as introduced was inflexible.¹⁷

Section 11A

This section was inserted at Stage 2 to insert a new section concerning the powers of the Land Court where there has been a suspected breach of duty.

This section modifies section 13 of the 1993 Act. It provides that the Land Court may, where it has received a copy of a notice given to a crofter by the Commission concerning a suspected breach of duty, pause proceedings in respect of an application made by the crofter to the Land Court for an order authorising the crofter to make an acquisition of crofter land tenanted by crofter under section 12(1) of the 1993 Act. Proceedings can be paused until the Commission confirm that they are satisfied that the duty is being complied with or any of the relevant circumstances mentioned in section 26E of the 1993 Act apply.

This section also provides that the Land Court must not make an order authorising the acquisition in accordance with section 13(1)(a) of the 1993 Act where it is

¹⁵ [Daily list of amendments for 3 March 2026](#) amendment 6

¹⁶ [OfficialReport](#), page 30

¹⁷ [Briefing](#)



satisfied by the Commission that the crofter is not complying with any of their duties under the 1993 Act.

We have no specific comments to make for the purpose of this briefing

Section 11B

This section modifies section 8 (assignment of croft) and section 23 (vacant crofts) of the Bill to provide that the Commission may not grant consent or approval to an assignment or letting unless the Commission is satisfied that the proposed assignee is aware of the duties they would have as a crofter under the 1993 Act.

This section also inserts a new section 19BC requiring the Scottish Ministers to make provision by regulations requiring that before any person acquires title to a croft as a nominee of a crofter, or purchases a croft from a constituting landlord, the Commission must be satisfied that the person is aware of the duties of owner-occupier crofter under section 19C. These regulations would be subject to the affirmative procedure, which we consider appropriate.

We welcome amendment 42 in the name of Rhoda Grant MSP concerning guidance relating to absences from crofts.¹⁸ Under this amendment, the Commission must publish guidance in relation to how it exercises its functions under sections 21B to 21D of the 1993 Act concerning consent for absence from croft.

Section 12

This section amends sections of the 1993 Act. Section 12 introduces new provisions exempting applications for decrofting which are made in respect of a croft, the conveyance in feu of which was granted under section 17 or 18 of the Crofters (Scotland) Act 1955 and from the provisions of the 1993 Act concerning decrofting and unregistered crofts.

This section was subject to amendment at Stage 2, with subsections 4 and 5 being removed, meaning that this section no longer modifies the Crofting Reform (Scotland) Act 2010 (“the 2010 Act”).

This section was also amended to remove subsection (2)(b).

We have no specific comments to make for the purpose of this briefing.

¹⁸ [Daily list of amendments for 4 March 2026](#) amendment 42

Section 14

Section 14 introduces new provisions to allow for boundaries of registered crofts to be adjusted or remapped. Two new sections are added to the 1993 Act:

- Section 39A – The 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 – The 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.

This section was subject to several amendments at Stage 2.

The amended section provides for:

- Clarification that, if there is an unresolved registration challenge affecting a registered croft, that croft cannot be included in a boundary adjustment application until the challenge has been resolved.
- Extension of the restrictions regarding challenges to the registration of the subject crofts to boundary remapping applications as well as all boundary adjustments.
- The Commission to have the power to impose conditions when approving a boundary adjustment or remapping. Applicants will therefore be able to avoid the risk of their croft boundaries diverging from the boundaries in their title.
- If any conditions are specified by the commission, that the direction for the boundary adjustment or remapping will expire three months after the date on which the conditions are satisfied instead of the date on which the direction was made.
- That an owner or part-owner of a croft may be the applicant for a boundary remapping. That is a significant extension of boundary remapping, and it means that it will be capable of resolving problems for crofts that are in multiple ownership, as long as all the owners agree.
- The Scottish Ministers a power by regulation, subject to the negative procedure, to specify classes of people whose consent must be required or to allow new classes of applicant.

We consider it unclear as to the process around the provisions concerning an unresolved registration challenge affecting a registered croft in certain cases. Under these provisions, such a challenge means that the croft cannot be included in a boundary adjustment application until the challenge has been resolved. We would welcome further clarity from the Scottish Government in how it envisions this process working in cases where there are unregistered crofts and third parties involved.



Section 15

Section 15 amends section 12 of the 1993 Act. The section provides that when a croft is purchased, the associated share in the common grazing will automatically be included in the transfer (as a pertinent of the croft) unless both the landlord and crofter agree otherwise.

The section also amends section 52 of the 1993 Act to give the 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 15 inserts a new section 52ZA into the 1993 Act concerning 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.

Section 15 was subject to significant amendment at Stage 2. The amendments agreed provided that:

- If a crofter purchases the entire croft, including the grazing right, that right counts as part of the croft for the full range of purposes of crofting regulation. It therefore cannot be separated from the inby land unless a division application is approved by the Commission.
- Any grazing right that is held by an owner-occupier crofter, whether as a purchased heritable right or as a deemed croft held in tenancy, is part of the croft for the purposes of section 19D of the 1993 act.
- Where an owner-occupier crofter who also holds a deemed croft sells his inby land without having secured approval to separate, an assignation of the deemed croft automatically takes place.
- The crofting register will be required to record links between crofts and deemed crofts that are held by the same person. The registration schedule for the croft will have to include a reference to the deemed croft and vice versa.
- The right to buy applies to an apportionment.
- If an owner-occupier crofter lets a croft to a new tenant crofter, any grazing share goes to the new tenant too, and becomes a pertinent of the new tenancy.
- A grazing committee and the Commission have the same management and oversight roles for all grazings.

We welcome these amendments and consider them appropriate.

We highlight that provisions under this amended section will remove the involvement of the landlord and the community from the process around grazing shares. For example, if the owner-occupied croft is sold and the grazing share deemed to be assigned, the right of the landlord and the community to lodge objections to the assignation has been bypassed.



We refer to our earlier comments made under section 10A concerning amendment 6.

Section 18

Section 18 amends the rules in the 1993 Act to allow common grazing to be used for a broader range of environmental purposes (like peatland restoration or biodiversity projects). It replaces section 50 of the 1993 Act with new sections 50, 50ZA, and 50AA, creating a new two-step process for gaining approval.

This section contains several changes in relation to how common grazing can be used to add environmental purposes as well as forestry.

We note that the grounds upon which the owner may refuse consent are similar to those which exist for woodland planting but with some important revisions (which would also apply to woodland consent going forward):

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

We note that the Bill was amended at Stage 2 in a number of areas that provide for:

- A strengthened and clarified definition of environmental use.
- An exclusion for the generation, transmission or storage of energy being classed as an environmental use of a croft.
- Allowing Ministers to, via regulations, exclude what may be classed as an environmental use of a croft.
- A strengthened ability for the Commission to examine whether owner-occupiers are fulfilling residency and land-use duties.

- Provisions enabling the Commission to undertake a closer review of transfers of owner-occupier status.
- A period of 5 years on which a Commission decision on the use of common grazing for forestry or environmental purposes is binding, in place of the previous 7-year period.
- The removal of certain constraints on the rights of a landowner to refuse consent for proposals put forward by a grazing committee. The owner is now able to refuse consent if they consider the proposal detrimental, in place of “substantially detrimental” to the management of the estate, or if they considered that it would cause them hardship rather than “undue hardship” or would lessen rather than “significantly lessen” the amenity of the land.
- Eight rather than six weeks for an owner to state whether they wished to refuse consent to a grazing committee application for a forestry or environmental use of the common grazing.
- A new provision inserted into section 50B of the 1993 act, on the use of common grazing for other purposes, text that is equivalent to words already in section 50 of the 1993 Act and that would be retained in the new section 50ZA, on the use of common grazing for forestry or environmental purposes, provide that, once consent was given by the commission, it would take effect when entered into the register of crofts, and the agreement would be binding on the successors to the owner’s interest.

We welcome the amendments made at stage 2 and in particular welcome the clarified definition of environmental use, in line with amendments made to section 1 of the Bill.

We note amendment 48, 49 and 50 in the name of Edward Mountain MSP mandating that Scottish Ministers must, within a certain number of years of Royal Assent, undertake a consultation on measures to improve the regulation of common grazings.¹⁹ We consider this a potentially useful means of examining the operation of common grazings legislation.

Section 20A

This section was inserted at Stage 2 to grant the Commission the power to correct inaccuracies in directions.

We consider this provision appropriate as it will enable flexibility on the part of the Commission.

¹⁹ [Daily list of amendments for 4 March 2026](#) Amendment 48, 49 and 50



Section 20B

This section was inserted at Stage 2 to require that where land has changed ownership, the owner is required to give the Commission notice of the change of ownership within one month of the ownership transferring. The section grants the Commission powers to reject any objection submitted by any person under section 58A of the 1993 Act where they have not followed the requirements under this new section 20B.

The section also grants Scottish Ministers the power to, by regulations, make provision about when ownership is to be treated as transferred for the purposes of this section.

We suggest that the Commission adopt a 'light-touch' enforcement policy of these provisions, ensuring that their enforcement policy is aligned with provisions in existing legislation such as succession law and that there are routes for remedial action where there has been an error. We highlight also the need for communication with solicitors and other stakeholders regarding the changes and the impact on their practises.

Section 22

Section 22 of the Bill updates the rules concerning unregistered crofts in the 2010 Act 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.

We highlight that the provisions under section 22 do not appear to catch nominee purchases (i.e. where the crofter exercises the right to buy but title is taken by a member of their family).

This section was amended at Stage 2 to require the transfer of a croft to the crofter's nominee to be registered. This section was further amended to include crofters' nominees as the persons responsible for application for the first registration of a croft under section 6 of the 2010 Act.

We welcome the amendments made to this section at Stage 2.

Section 23

Section 23 of the Bill removes the requirement to pay the application fee to the Commission when registering a croft and provides that the applicants must now make arrangements that are satisfactory to the Keeper for paying the registration fee.

We welcome the provisions under section 23, as these provide for the Keeper to have a much greater role in the process.

This section was amended at Stage 2 to change the ways in which an application for registration must not be accepted by the Keeper under section 8 of the 2010 Act. The amended Bill now requires that applications for registration not be accepted where payment of the fee has been made or where arrangements satisfactory to the Keeper for payment of the fee have not been made.

This section was also amended at Stage 2 to repeal subsection 6 of section 26 and subsection 9 of section 32 of the 2010 Act, in place of the previously proposed substitutions.

We highlight the importance of ensuring that these provisions do not preclude individuals from engaging with the Commission in respect of payment without the need for solicitor involvement and that the process remains user friendly.

Section 24

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

This section was amended at Stage 2 to change the time period required for the tenant to give a copy of the draft application for first registration prior to submitting said application to the Commission from 14 days to 21 days.

We welcome clarification as to whether the 21 day period will be considered as 21 working days or otherwise.

We welcome amendments 51, 52, 53, 54 and 55 in the name of Edward Mountain MSP. We consider it sensible that the landlord's responses to a registration application are intimated back to them as there is little point in intimating the application in advance without such sharing of information.²⁰

Section 26

Section 26 amends Part 2 of the 2010 Act, focusing on how errors in the Crofting Register can be corrected.

This section was amended at Stage 2 to remove the proposed section 16B to the 2010 Act as proposed in the Bill as introduced. We note that this was done on advice from the Keeper that the powers under the proposed section 16B would likely not be utilised.²¹

²⁰ [Daily list of amendments for 4 March 2026](#), amendments 51-55

²¹ [OfficialReport](#) page 43



Section 27A- 27I

These new sections were inserted at Stage 2 and require that crofts must be registered prior to making application to the Commission for

- the enlargement of a croft.
- the exchange of crofts or parts of croft land.
- assignation.
- the division of crofts or owner-occupied crofts.
- the resumption of croft or part of croft by landlord.
- the reversion of resumed land.
- decrofting in case of resumption or vacancy of croft.
- Subletting.
- the letting of owner-occupied crofts.

We would welcome clarity on at what point a croft is considered to be registered, whether it is at the point of initial registration or at the point of the competition of the registration submission.

Section 27J

This new section was inserted at Stage 2 to make miscellaneous provisions in relation to the requirements for a croft to be registered under the 1993 Act.

Section 29

Section 29 updates how public notification is carried out under the 1993 and 2010 Acts, removing the requirement to publish notices in local newspapers.

This section was amended at Stage 2 to specify that Ministers may only make regulations in reference to the Bill and section 12(8) of the 2010 Act, in place of the 2010 Act in its entirety as previously.

Section 30

This section amends section 40A of the 1993 Act concerning the crofting census which requires the Commission to issue notices every year. The Bill changes this so that notices are issued at least every three years.

This section was amended at Stage 2 to change the proposed new heading for section 40A of the Crofters Act 1993 from “Crofting Census notice” to “Duties notice”.



Section 33

This section amends paragraphs 12 and 13 of Schedule 1 to the 1993 Act by removing the requirement that the Commission's Chair, if attending a committee meeting, has to take over the chair from the committee chair.

This section was not subject to amendment at Stage 2.

We welcome amendment 26 in the name of Jim Fairlie MSP. We consider this aligned to the request in our election priorities document Justice Matters in relation to post-legislative scrutiny.²² It is vital that MSPs maximise endeavours to increase the amount of post-legislative scrutiny across all subject areas.

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

We highlight our previous response to the Scottish Government's 2020 consultation 'Future of the Land Court and the Lands Tribunal' in which we stated our opposition to the two bodies being amalgamated.²³

We understand that persuasive arguments for amalgamating the Land Court and the Lands Tribunal are the potential savings in administrative costs and alignment of the membership so as to resolve some of the difficulties which presently arise. Equally we consider it vital that any amalgamated body must be properly resourced, and an amalgamation should not be seen purely as a means of reducing resource. It is vital that access to justice is maintained. We consider that it is important that an amalgamation of the bodies does not in itself result in increased costs for parties.²⁴ We would further highlight the importance of the rules on costs for this new body complying with the access to justice provisions of the Aarhus Convention.²⁵

Furthermore, we highlight our response to the Scottish Government's consultation 'A review of the effectiveness of environmental governance.'²⁶ We would welcome clarity on how significant a role the reformed Land Court should play in environmental issues and highlight that, given the provisions in the Bill relating to environmental use in section 1, legal matters connected to the environment could often end up before the Land Court.

We welcome the Scottish Government's introduction of provisions which bring applications made under section 16 of the Succession (Scotland) Act 1964 (the

²² [law-society-of-scotland-election-priorities-2026-justice-matters.pdf](#), page 9

²³ [Future of the Land Court and the Lands Tribunal](#)

²⁴ [Future of the Land Court and the Lands Tribunal](#)

²⁵ [Convention on access to information, public participation in decision making and access to justice in environmental matters](#)

²⁶ [Review of the effectiveness of environmental governance response](#)



1964 Act) within scope of the Scottish Land Court, in line with our previous recommendation.²⁷

Part 2 was not subject to amendment at Stage 2.

We note amendment 27 in the name of Jim Fairlie MSP concerning the review of the operation and jurisdiction of the Court, including the consideration as to whether the remit of the court be expanded to include environmental matters.²⁸

Part 3

Part 3 of the Bill contains general provisions. We have no specific comments to make on Part 3 at this stage.

Schedule 1

Schedule 1 of the Bill sets out practical details of how the amalgamated Court would operate.

This schedule was not subject to amendment at Stage 2.

Schedule 2

Schedule 2 introduces minor and consequential amendments.

We welcome amendments 30 and 31 in the name of Jim Fairlie MSP.²⁹ These align with the aim of our earlier suggested amendment at Stage 2 concerning aligning legislation with the provisions of the proposed section 5C(8A) of the 1993 Act as concerns environmental use.

²⁷ [Crofting Law Paper- Law Society of Scotland, 2020](#)

²⁸ [Daily list of amendments for 3 March 2026](#) amendment 27

²⁹ [Daily list of amendments for 3 March 2026](#) amendment 30 and 31



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