



**Crown Estate
Scotland**
Oighreachd a' Chrùin Alba

Agricultural land reletting framework

September 2019



Agricultural land – reletting framework

1. Introduction

This document sets out Crown Estate Scotland's decision-making process regarding the letting of agricultural land.

Under the [Scottish Crown Estate Act 2019](#) Crown Estate Scotland's statutory duty will be to manage property and land to maintain and seek to enhance its value and the income it generates and to promote economic development, regeneration, social and environmental well-being, and sustainable development.

Crown Estate Scotland's purpose is to invest in property, natural resources and people to generate lasting value for Scotland. The rural estate is managed for the long-term, with a firm commitment to sustainability and to nurturing partnerships with tenants. In agriculture, we are committed to working with farmers and farming communities to support sustainable farming businesses. This includes initiatives that help farmers transition to financially viable business models as well as our approach to letting to, for example, new / young entrants and to businesses with more diversified income streams.

Across the four estates - Fochabers and Glenlivet in Moray, Whitehill near Edinburgh and Applegirth in Dumfries and Galloway - most of the land is occupied by third parties, mainly farming families, under a variety of agricultural leases including over 100 secure agricultural tenancies. Other leases include medium and shorter-term lets and annual grazing leases.

As leases expire, are surrendered or land comes back 'in-hand' (for whatever reason), decisions about the longer-term use of the land are required. These decisions need to reflect the Scottish Crown Estate Act 2019 and Crown Estate Scotland's objectives, as set out in our Corporate Plan. As a public body, we provide letting opportunities on an open and fair basis unless there is an overriding public interest reason to do otherwise.

While Crown Estate Scotland's revenue profit is paid to Scottish Government, we raise capital from sales and other transactions to fund improvements to assets for our tenants' use and to stimulate business sectors, attract potential tenants and invest in other land and property.

2. Initial Considerations

When a farm unit or agricultural land lease comes to an end, for whatever reason (lease expiry, change of tenant circumstances, voluntary surrender of lease etc.), decisions regarding the future use of that land are subject to a range of considerations.

For the avoidance of doubt in the case of a secure (1991 AHA) tenancy any application for assignation to a qualifying family member meeting the necessary criteria will be treated favourably.

Crown Estate Scotland has granted a number of assignations to the next generation of the family over the past few years. Our policy is to review each case in detail with a recommendation from the managing agents and a final decision by Crown Estate Scotland. Each case is given proper consideration and the request would only be challenged if there is a significant and justifiable issue on which to do so in line with established guidance from, for example, the Tenant Farming Commissioner.

When tenancies expire or are surrendered or vacated, it is the general policy of Crown Estate Scotland to re-let unoccupied agricultural land, on a fixed-term tenancy, for agricultural use, unless there are specific business reasons to make an alternative decision that meets the obligations of the Scottish Crown Estate Act 2019 and the Corporate Plan.

The decision will also be dependent on the type and nature of the property, its previous use and whether or not the existing occupier wants to renew the lease.

Below we set out the factors considered when the former lease involves different assets e.g. a whole farm unit with a house, land and agricultural buildings, land only, and a grazing let.

Each decision is based on the tenancy circumstances and the nature of the unit (size, fixed equipment, state of the holding / parcel of land). The decision will consider whether:

- Continued occupation by the previous lease-holder is critical to their business.
- To sell the unit / land on the open market to help meet wider Corporate Plan objectives.
- There is a strong case for other development opportunities / alternative uses of the land or part of the land (such as woodland planting or housing).
- There is a strong case to undertake a restructuring of the unit to meet other objectives or to support neighbouring farm businesses or community needs.
- The unit is suitable for providing opportunity for new entrants.

We will also consider what the process should be regarding any re-letting, including application, evaluation and final decision process.

3. Consultation with key stakeholders

When whole farms come back in-hand, Crown Estate Scotland will take advice from the NFUS Crown Estate Scotland Farm Tenant Reference Group and other advisers such as the Scottish Government's Farming Opportunities for New Entrants (FONE) Group. If a decision is likely to impact other community or stakeholder interests, we'll also undertake wider consultation with local community interests in line with published guidance from, for example, Scottish Land Commission and Scottish Government.

4. Reletting Processes

The following sections describe the process for land and associated property formerly held under:

- a) Whole farm secure tenancy
- b) Farm units under Limited Duration Tenancies (LDTs).
- c) Letting of other agricultural land (held under LDTs or Short Limited Duration Tenancies (SLDTs)).
- d) Smaller areas of bare land let under annual grazing type agreements.

4.1 Whole farm secure tenancy

When making decisions regarding the future of whole farm units, typically the following factors are taken into account:

- The size of unit and its sustainability and viability as a going concern, given current and forecast agricultural economic conditions.

- Possibility of re-letting to the next generation of the family.
- Possibility of helping to establish economies of scale with a neighbouring unit.
- Suitability for new entrant / young entrant letting.
- The provision and condition of fixed equipment – buildings, farmhouse, storage facilities, fencing and other capital infrastructure.
- The condition, provision and balance of farm land including quality and type and the proportion of different types of land in relation to farm business requirements.
- Future investment requirements in terms of both fixed equipment and land.
- The current and future potential rental value of the unit assessed against the market for similar properties on similar terms.
- The potential forecast revenue / rental yield as a percentage of capital value of the unit.
- Opportunities for maintaining and increasing capital value and rental income through shared investment / third party investment and / or improvements in husbandry/business development.
- Current tenure arrangements including the circumstance of the existing tenant.
- Case for alternative development requirements / opportunities.
- Potential for conservation and environmental enhancement, including in relation to climate change.

Following that assessment, we'd typically make a decision to let if:

- The balance of these considerations indicated that the unit was economically viable and was in an appropriate condition with the requisite balance of land types to support a viable business plan;
- Passing rent can be maintained close to the market rent and at a sustainable level;
- The unit did not require significant capital investment which could not be justified given the return on investment in comparison to alternative investment opportunities; and
- The decision to re-let was compatible with the objectives in the Corporate Plan.

The duration and type of any future tenancy will be a factor in the decision. These factors will also be considered against opportunities for Crown Estate Scotland to contribute towards Scottish Government policies such as providing opportunities for new entrants.

Whole Farm Re-Letting Process

The process of letting a farm unit on the open market is managed by managing agents and Crown Estate Scotland staff and involves the preparation of particulars, hosting open days and inviting tenders by a closing date. Particulars will outline what is required in the tender and how these will be assessed, and will include a copy of the scoring matrix.

The selection process is designed to be objective to ensure fairness and transparency. Chartered Surveyors, Crown Estate staff and an independent party are all on the selection committee involved in decision-making throughout the process. The independent adviser will not be a Crown Estate Scotland tenant or anyone with close connections with tenants in the local area.

Crown Estate Scotland encourage interested parties to include ideas for farming and non-farming or environmental projects in their tenders (depending on the nature of the farm unit), which reflect the requirements of the Scottish Crown Estate Act 2019 and Crown Estate Scotland's Corporate Plan. Consideration is given to how these proposals can be catered for in the leasing arrangements. The

successful applicant is not necessarily the one offering the highest rent, instead a range of factors are considered.

Following the receipt of tenders:

a) Tenders are scored by the Crown Estate Scotland team, managing agents and independent adviser (see Appendix 1) taking account of the following factors:

- Familiarisation of circumstances
- Qualifying experience
- Gross margin
- New / young entrant
- Dependence of business on additional land
- Availability of working capital
- Proposals for conservation, biodiversity and environmental enhancement
- Proposed approach to community and education opportunities

The matrix is adjusted and weighted to suit the particular circumstances of the farm let, such as suitability for young tenants. The weightings will be published with the particulars, so applicants know how their applications and business plans will be scored.

Tenders are first scored without rent to determine a shortlist. The tendered rent is then added to the shortlist to determine the candidates for further interview.

b) Based on the results, shortlisted candidates are selected. In most cases the shortlisted candidates will then be visited and interviewed (on their current farms if they have one) by a panel consisting of the managing agents, the independent advisor and Crown Estate Scotland staff if availability allows. References will also be requested.

c) A recommendation about the preferred tenderer is then put forward to Crown Estate Scotland's Head of Property.

d) Once a preferred candidate is chosen, other short-listed tenderers are informed that a preferred candidate has been identified. Feedback will be offered to unsuccessful tenderers.

4.2 Whole Farm Limited Duration Tenancies (LDTs)

From three years in advance of the expiry date for LDTs, discussions will be opened with the existing tenant by the managing agent in line with procedural requirements. Notice of the intention to terminate the LDT will be served not less than two years and not more than three years prior to the termination date.

This will then be followed by a second formal notice, served not less than 12 months and not more than 24 months in advance, confirming that the LDT will be terminated on the termination date.

Where an LDT for a whole farm (including farmhouse farm buildings) is about to expire, consideration will be given to the following:

- The existing tenant's circumstances and future plans.
- The possibility of re-letting to the next generation of the family.

- Whether the tenant has complied with lease terms and manages the land to a good standard using best practice.
- Whether the rent is at the market rental value.
- Whether the land is suitable for let to a new / young entrant.
- Whether the land is required for a restructuring plan with a neighbouring unit as part of the estate strategy.
- Whether longer term development planning potential for the land has been identified which requires flexibility in any future letting arrangements.
- Whether Crown Estate Scotland has a requirement to sell or pursue a change of use to meet wider Corporate Plan objectives.

Any case for the unit to continue to be occupied by the existing tenant or a member of their family will take account of whether:

- the farm business is heavily dependent on the land;
- agreement can be reached on an appropriate rent figure representing Best Value;
- lease terms have been complied with; and
- there are no other overriding Crown Estate Scotland considerations.

The lease would normally be renewed under a new fixed term agreement (MLDT or other format depending on agricultural legislation).

Consideration will be given to granting to the next generation of the family provided they are closely involved in the farm business and an acceptable business plan has been agreed. The duration of the lease will be subject to negotiation and agreement between the parties in line with relevant guidance and legislation.

Crown Estate Scotland will take advice from the NFUS Crown Estate Scotland Farm Tenant Reference Group and other advisers such as the Scottish Government's Farming Opportunities for New Entrants (FONE) Group before reaching a conclusion on any case for open market re-letting. If a decision is taken to re-let the unit on the open market the same process will be adopted as for whole farm re-lettings (as above).

4.3 Letting of other agricultural land

Bare land >10ha – expiring Limited Duration Tenancy (LDT)

From three years in advance of the expiry date for LDT, discussions will be opened with the existing tenant by the managing agent in line with procedural requirements. Notice of the intention to terminate the LDT will be served not less than two years and not more than three years prior to the termination date.

This will then be followed by a second formal notice, served not less than 12 months and not more than 24 months in advance, confirming that the LDT will be terminated on the termination date.

The decision regarding the future occupation or use of the land will depend on a range of factors including:

- The existing tenant's circumstances and future plans.
- Whether the land is of significance to the wider farming business, where it is let as an addition to an existing farm tenancy.

- Whether the tenant has complied with lease terms and manages the land to a good standard using best practice.
- Whether the land is required for a restructuring plan with a neighbouring unit as part of the estate strategy.
- Whether the land is seen as suitable for let to a new / young entrant.
- Whether the rent is at the market rental value level.
- The possibility of re-letting to the next generation of the family
- The likely demands from other local and wider farming interests which would suggest a requirement to give others the opportunity to bid for use of the land through an open market re-let.
- Whether there a strong case for alternative use for which flexibility needs to be maintained and a shorter-term agreement appropriate.

Subject to the outcome of these consideration, the managing agent will make a recommendation to Crown Estate Scotland on the options and circumstances involved. The final decision will be made by Crown Estate Scotland. Any open market reletting exercise will follow the procedure described under whole farm lettings above.

Bare land >10 ha - expiring Short Limited Duration Tenancy (SLDT)

Where land over 10ha is let under an SLDT, discussions will commence with the existing tenant a minimum of 6 months in advance of expiry for a tenancy of 3-5 years. No formal notice is required for SLDT agreements.

The decision regarding the future occupation or use of the land will depend on the same factors listed above for bare land LDTs. Subject to the outcome of these considerations, the managing agent will make a recommendation to Crown Estate Scotland on the options and circumstances involved. The final decision will be made by Crown Estate Scotland. Any open market reletting exercise will follow the procedures set out above for the letting of LDTs.

Because of the contractual characteristics of an SLDT, where there is a strong case to renew an agreement either consideration will be given to granting an agreement to another member of the farming business or an alternative agreement type will be considered.

Any open market reletting exercise will follow the procedures set out above for the letting of LDTs.

Bare land <10 ha – SLDT

Where land is let under SLDT and is under 10 ha, discussions will commence with the existing tenant a minimum of 6 months in advance of expiry for a tenancy of 3-5 years. No formal notice is required for SLDT agreements.

The decision regarding the future occupation or use of the land will depend on the same factors listed above for areas >10 ha. and for LDTs. Subject to the outcome of these considerations, the managing agent will make a recommendation to Crown Estate Scotland on the options and circumstances involved. The final decision will be made by Crown Estate Scotland.

Because of the contractual characteristics of an SLDT, where there is a strong case to renew an agreement either consideration will be given to granting an agreement to another member of the farming business or an alternative agreement type will be considered.

Any open market reletting exercise will follow the procedures set out above for the letting of LDTs.

4.4 Smaller areas of bare land let for annual grazing type agreements

No formal notice is required for these agreements. In making a decision, Crown Estate Scotland will consider a number of factors including:

- The existing tenant's circumstances and future plans.
- Whether the tenant has rented the grazing for many years and is dependent on the land for their business operation or for other purposes.
- Whether the tenant has complied with all lease terms and manages the land well.
- Whether the land is required to be let on very short-term agreements to maintain flexibility for future use.
- Whether the land is suitable for a new /young entrant letting, perhaps combined with other land.
- Whether there is significant competition locally for the grazing land.
- Whether there is an opportunity to grant a longer agreement, such as an SLDT

If the tenant has rented for many years on a satisfactory basis without issues related to the terms, including following best practice in land management, and wishes to continue with the agreement, and there are no other over-riding business considerations under the Corporate Plan or significant local demand for the grazing land, Crown Estate Scotland would normally continue to make the land available to the existing occupier under annual grazing terms.

Alternatively, if Crown Estate Scotland concludes there is a case for others to have the opportunity to apply for use of the land an open market process will be pursued, involving local advertising and selection of bids by Crown Estate Scotland and our managing agents. Where an annual grazing let has been annually renewed for more than five years, two further annual renewals will be offered before offering on the open market.

Bare land – smaller area – horse grazing

No formal notice is required for this type of agreement.

Crown Estate Scotland will consider a number of factors including:

- Whether the land is used specifically for horse grazing and this is its appropriate use
- Whether the tenant has rented the grazing for many years and is dependent on the land for their business/leisure operation
- Whether the rent is at the appropriate level for its use and location
- Whether the land is suitable for a new /young entrant letting

If a tenant has rented for many years on a satisfactory basis without issues related to the terms, including following best practice in land management, Crown Estate Scotland would normally continue to make the land available to the existing occupier under the standard horse grazing terms.

If these points do not apply, the open marketing process would involve local advertising and selection of bids by Crown Estate Scotland and our managing agents.

If you have any queries about this document and process, please contact Fiona Simpson, Asset Manager: Fiona.simpson@crownestatescotland.com or call 0131 260 6070.