

# Occupancy of land

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Updates to last version

- removal of duplicate content in the *Short-term tenancies/contractual licences* section

## Introduction

To apply to the Agri-Environment Climate Scheme, you must either own and occupy the land, have a secure tenancy, or have a contractual licence.

If you have a contractual licence you are eligible to apply for capital items only.

You must be able to demonstrate that you have the legal right, to carry out the projects to be funded on the land included in your application for the length of the contract and any associated monitoring period.

If you are a landlord or an owner/occupier you can apply for land that is managed in hand or let out on a seasonal basis only. If any land included in the application is let out on a seasonal basis, it will be your responsibility to ensure that all scheme requirements are met.

### Tenancies

If you are a non-croft tenant or official sub-tenant of a croft, it is your responsibility to discuss the proposed application with your landlord or main tenant to make sure it does not break the conditions of your tenancy.

You must be able to demonstrate a legal right to carry out the proposed management to be funded on the land included in your application for the full length of a five-year contract under this scheme.

If you propose to apply for capital items, your rights must last for the associated monitoring period, which is five years from the final payment for a capital item.

In order to demonstrate this you must submit with your application, either:

- a signed Landlord Declaration Form (see below) in which your landlord or main tenant confirms that the lease extends beyond the required duration, or
- a copy of the lease



[Landlord Declaration Form \(PDF, Size: 178.6 kB\)](https://www.ruralpaymentsandservices.org/media/resources/aecs_guidance____landlord_declaration_form__16_june_2015_v1.pdf)

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### Contractual licences (third-party applications)

If you are not a landowner or tenant, you can apply to do capital works on land covered by a contractual licence. However, applications will be restricted to capital items which are specifically aimed at works such as improving public access or for stand-alone capital works which are being undertaken across a number of holdings to address, for example, invasive non-native species.

You must have written agreement from all the landowners concerned. To demonstrate this, you must submit a copy of the licence with your application.

It must be in effect before you apply to the scheme and include the following:

- a map of the area covered by the licence

- the duration of the licence
- the details of responsibilities and liabilities
- details of the landowners or main tenants covered by the licence
- details of the activities covered by the licence\*

\*For capital items, contractual licences must cover the contract monitoring period which is five years from the final payment of the capital item.

### **Short-term tenancies/contractual licences**

Where your tenancy or licence does not cover the required duration, you must submit the Landlord Declaration Form (see above) with your application, in which your landlord or main tenant confirms that they will take responsibility for carrying out the proposed management and capital items for the remainder of the contract and any associated monitoring period (see 'change of occupiers or transfer of land' section below).

You cannot apply for land-based options on seasonal-held land, including arable, if your lease is for a period of less than a full year.

### **Crofting**

If you are a main tenant of a croft with a tenancy which covers the required duration, you do not have to submit any supporting documentation.

However, the 'change of occupiers or transfer of land' requirements referred to below, will still apply.

If you are an official sub-tenant of a croft, a copy of the letter issued by the Crofters Commission confirming the approval of the sub-let and its duration will also be acceptable as supporting documentation to that referred to at the tenancies section referred to above.

If you are a grazing clerk, submitting an application on behalf of a grazing committee, your application must include the following supporting information:

- the written consent of a majority of the crofters with shares in the common grazing. All crofters benefitting from assistance must be compliant with the statutory duties placed on them by the Crofters(Scotland) Act 1993
- evidence that notice of the intention to submit an application and the proposed division of the grant amongst the eligible crofters has been issued by the grazings committee or constable to all shareholders sharing in the common grazings

Confirmation from the grazings committee or constable that the Crofters Commission has approved the proposal.

**Please note: any application for funding will not be considered until the documentation outlined within the relevant sections above has been submitted.**

### **Change of occupiers or transfer of land**

If there is a change of occupancy or a sale / transfer of the land within the contract agreement period, the onus will be on you, the contract holder, to make sure that the new occupier or owner of the land takes on your obligations under this scheme and that a successor request form is completed.

Where your tenancy or licence does not cover the required duration, the landlord or new tenant must enter into a successor's agreement within three months of the tenancy or licence ending by submitting a completed successors request form.

If these requirements cannot be met, you will normally need to repay all or part of the payments you have already received, plus interest.

Guidance on successions and the succession request form will be available later in 2015.

You must let your local area office know about any changes affecting the legal occupiers of the land under a contract.

Please also see guidance on withdrawing from the scheme.

### **[Withdrawing from the scheme](#)**

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