

Child Rights and Wellbeing Impact Assessment (CRWIA) for the Crofting and Scottish Land Court Bill

June 2025

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Disclaimer

This document is a point in time assessment of the likely effects of the above-named proposal on the rights and wellbeing of children and young people. This impact assessment should be read in conjunction with other impact assessments prepared for this proposal.

Scottish Government acknowledge the importance of monitoring and evaluating the impact of strategic decisions and legislation on children's rights and wellbeing. Any information gathered during implementation of the legislation or strategic decision to which the impact assessment relates, will be used to inform future determinations of impact. Any new strategic decision or new legislation (including amending legislation) would be subject to a new CRWIA in line with the legislative requirements.

Child Rights and Wellbeing Impact Assessment

1. Brief Summary

1.1 Type of proposal: Bill

1.2 Name the proposal and describe its overall aims and intended purpose: Crofting and Scottish Land Court Bill

1.2.1 Crofting

Crofting is at the heart of communities across many parts of the Highlands and Islands, in Argyll, the Hebrides, Highlands and Northern Isles. Approximately 10% of the Highlands and Islands population (around 33,000 people) live in crofting households. Crofters across these areas cultivate land, tend livestock, diversify into alternative land-based businesses, protect the environment and biodiversity, and play a key part in their local community whilst maintaining the areas' heritage and culture. However, the system needs to adapt to changing circumstances, to allow crofting to continue to thrive. The Bill aims to support the sustainability of crofting, of crofters and crofting communities, and provide legislation that will allow crofting to modernise, innovate and diversify.

The Bill will simplify legislation, streamline administrative processes, and make regulation less onerous for active crofters and the Crofting Commission. The Bill also aims to bolster and strengthen the role of Grazing Committees, giving them and individual shareholders more options for proposing environmental initiatives on common grazings.

The Bill will give additional powers to the Commission with which to resolve issues for individual crofters or crofting communities.

The Bill aims to strengthen crofting in seven key areas:

- Crofting communities
- Enforcement of crofters' duties
- Crofting Commission powers
- Common Grazings
- The Crofting Register
- Electronic communications
- Simplifying and clarifying aspects of crofting law

Crofting Communities

Crofting has an important community dimension, and the legislation reflects this by balancing the rights of individual crofters with the rights of the communities of which they are part.

One of the proposals clarifies the definition of a crofting community as the crofters holding crofts and/or grazings rights in a particular township, with the townships being those recorded in the Register of Crofts. The Bill will also require the Crofting

Commission to consider a wider area – the parish – when they are weighing up pressures on the sustainability of crofting. Another proposal will give subtenants and landlords, along with the crofters themselves, the right to report suspected breaches of duty to the Commission.

Enforcement of crofters' duties

All crofters, tenant and owner-occupier, have a legal duty to reside within 32km of their croft and to ensure their croft land is cultivated or put to another purposeful use. Crofters' adherence to these duties are vital for the strength of crofting communities, and for population retention and land use in rural and island areas. The existing legislation gives the Commission powers to enforce adherence to the duties, and the Bill aims to streamline and improve this legislation to give the Commission more power to act. The Commission will be entitled to require that questions about crofters' adherence to their duties can be resolved before their other applications are considered.

Streamlining the duties enforcement process is expected to create opportunities for new entrants, including young people over the age of 16, benefitting the wider community by increasing crofting opportunities.

Crofting Commission Powers

The Commission is the regulatory body for crofting and is charged with promoting the interests of crofting. The Bill will make changes to give it stronger autonomy, in particular relating to decisions on applications to decroft land. The Bill will also give the Commission additional powers with which to resolve issues for individual crofters or crofting communities, including the power to adjust the boundaries of crofts with consent from all interested parties.

The Bill will give the Commission the power to award owner-occupier status when it is merited, which will apply to the successors in title to that croft, who may be children. As only owner-occupier crofters and tenant crofters are able to access crofting specific grants, this proposal could directly benefit the children of crofters, whose parent(s) will now be able to apply for grant support, helping them to invest in their croft business and towards the cost of building or improving their croft house.

The Commission receives around 300 assignation (transfer of croft tenancy) applications each year, around 99% of which are approved. It is very difficult for the Commission to refuse such applications, as to do so it would require evidence that the assignee (incoming crofter) has no intention of taking up residency or of cultivating, maintaining or putting the croft to another purposeful use. The Bill will introduce a streamlined and simplified assignation application process for within-family assignations, removing the requirement (and associated cost) to advertise the proposed assignation and the right of the crofting community to raise an objection whilst retaining the landlord's right to object.

This proposal will help facilitate entry to crofting, by simplifying and accelerating the process.

Common Grazings

Two thirds of all crofting land is on common grazings, the upland areas shared by most members of the local township(s) and by other shareholders. In common with upland areas not in crofting tenure, common grazing land is increasingly recognised as having great potential for peatland restoration, forestry, habitat restoration and renewable energy schemes, as well as traditional grazing of livestock.

There are proposals that aim to bolster and strengthen the role of Grazing Committees, giving them and individual shareholders, adults and children alike, more options for proposing environmental initiatives on common grazings. This will help facilitate greater land use, and provide stronger rights for all crofters. These proposals have been assessed as having a positive direct and indirect impact on all crofters and members of the crofting community, and may financially benefit those participating in such projects. Environmental projects could also benefit the wider community and help Scotland achieve its climate and environmental targets, therefore indirectly benefiting all children

The Crofting Register

A number of proposals in the Bill refine the processes for registration of crofts in the Crofting Register, including the interaction between the Crofting Commission and Registers of Scotland (RoS) in handling first registrations, and more flexibility for both RoS and the Commission to correct errors in the Crofting Register.

A number of these proposals will provide a simpler and more cost-effective approach to Crofting Register rectification for clear and straightforward inaccuracies. This will allow greater accuracy to be achieved and will minimise the number of Scottish Land Court challenges, thereby providing a more cost-effective approach to maintaining the Crofting Register for all involved, including crofters.

Electronic Communications

The Bill includes proposals to modernise and broaden the methods available to crofters and the Crofting Commission for serving notices, giving public notifications, and holding meetings. The Bill will make it clear that where the legislation requires a public meeting, such as for the election of a grazings committee, these meetings may also be held online or in hybrid fashion. It is expected that this will make it easier for members of crofting communities, adult and children alike, to attend meetings that affect them.

Simplifying and clarifying aspects of crofting law

The Bill also aims to make a range of simplifications and improvements to the way crofting is administered, and makes corrections and clarifications to the legislation as recommended at various times by the Scottish Land Court, or suggested by the Crofting Law Group. Including, updating references to a person's "wife or husband", making these instead a reference to "spouse or civil partner".

1.2.2 Scottish Land Court

The amalgamation of the Scottish Land Court and the Lands Tribunal for Scotland, to form a newly expanded Scottish Land Court.

The Land Court primarily deals with questions arising between landlords and tenants of agricultural land, including crofts under the Crofters (Scotland) Act 1993, the Crofting Reform etc Act 2007 and the Crofting Reform (Scotland) Act 2010, smallholdings under the Crofters Holdings (Scotland) Act 1886 and tenanted farms under the Agricultural Holdings (Scotland) Acts 1991 and 2003. It also has a number of other jurisdictions. The Land Court is based in Edinburgh but holds hearings throughout Scotland.

The Lands Tribunal deals with a wide range of issues, including determination of disputed compensation for the compulsory acquisition or loss in value of land under the Land Compensation (Scotland) Act 1963 and under the Land Compensation (Scotland) Act 1973; references relating to the accuracy of the Land Register under the Land Registration (Scotland) Act 2012; appeals against the valuation of land acquired under parts 2 and 3A of the Land Reform (Scotland) Act 2003 (the Community Right to Buy).

Both bodies have a firm focus on land. Since 1978 the Chair of the Land Court has also been appointed as President of the Lands Tribunal. This is not a statutory requirement but by convention the two bodies share the same head. They also share premises and are both administered by the Scottish Courts and Tribunals Service, although each has its own administrative staff. The Land Court has a long tradition of serving the crofting and wider agricultural community and a historical role as the protector of tenants' rights going back to the early days of crofting legislation. As such the proposal is to merge the Lands Tribunal into a newly expanded Scottish Land Court, retaining the tradition and history of the Land Court.

Provision is also made for suitably qualified members of the Scottish Land Court to act in the Upper Tribunal for Scotland if required after the merger, with transitory provision enabling suitably qualified Lands Tribunals members to act in the interim. The aim of these provisions is to build resilience in the Upper Tribunal and allow for the flexible deployment of judicial resource. This will ensure that the Upper Tribunal has an array of legal expertise at its disposal.

In summary, this simplifies and streamlines two different judicial processes to make the system easier to navigate.

Start date of proposal's development: June 2022

Start date of CRWIA process: January 2024

2. With reference given to the requirements of the UNCRC (Incorporation) (Scotland) Act 2024, which aspects of the proposal are relevant to/impact upon children's rights?

2.1 Crofting

No aspects of the Bill are deemed directly relevant to the UNCRC (Incorporation) (Scotland) Act 2024 and its requirements.

The Bill addresses specific legislative priorities that have been identified by the Scottish Government and stakeholders as a barrier to the operation and development of crofting. The crofting proposals are intended to tidy up, clarify and simplify existing crofting legislation, streamline regulatory processes, and make crofting regulation less onerous for active crofters and the Crofting Commission (“Commission”). Given that the legislation and processes of the Commission are already well established and are not substantially changing, but instead are being streamlined and improved, we do not anticipate any significant in-direct impact, and any impact at all will be minimal.

An individual over the age of 15 can become a crofter in their own right. As at April 2025, there are two crofters under the age of 18 – one aged 17 and one aged 16. Crofting legislation currently has a negligible impact on children and the proposed changes to legislation are not expected to alter this position. The proposals may have a minimal direct positive impact on children where that child is a crofter. The proposals may also have an indirect positive impact on children where that child has a parent or guardian who is a crofter or landlord.

Many of the proposals will have no direct or indirect impact, positive or negative, on children, either as crofters or as the children of crofters, landlords or landowners, different to that of crofters, landlords or landowners of other age groups.

Impact of the proposals

Overall, the proposals will not impact on individuals unless they are members of the crofting community, or their family members, and only members of the crofting community will directly benefit from the proposals. Although there are a small number of proposals that will indirectly benefit the wider community.

The proposals will have no impact on the rights of children different to that of crofters aged 18 and over. The proposals will not disadvantage children who are crofters, or who are the children of crofters or landlords or landowners, nor negatively impact those groups. Overall, there are expected to be a small number of direct and indirect positive impacts on children, whether as crofters or the children of crofters, landlords or landowners, as outlined above. While the Bill has potential to relate to children directly and indirectly, given that the proposals target improvements to the regulatory process; facilitate activity; and address technical issues, our assessment of the proposals is that there is no impact.

2.2 Scottish Land Court

No aspects of the Bill are deemed directly relevant to the UNCRC (Incorporation)(Scotland) Act 2024 and its requirements.

The amalgamation of the Land Court and the Lands Tribunal is primarily administrative in nature. The policy objective is to merge the two bodies into one cohesive body, the Scottish Land Court. The newly merged body will offer structural coherence, efficiency and the delivery of a better service to litigants. Members of the Land Court and Lands Tribunal will be able to hear all cases which come before the newly expanded Scottish Land Court, which will allow for a flexible deployment of personnel and resources to ensure the efficient administration of justice.

It is important that the flexibility of the Land Court and Lands Tribunal to hear a case in the most appropriate location should not be lost. It is therefore intended that the Scottish Land Court will continue as before, being based in Edinburgh but meeting throughout Scotland in the location most suitable to the affected parties.

Likewise, the proposals in respect of Upper Tribunal membership are not directly relevant to the UNCRC (Incorporation)(Scotland) Act 2024 and its requirements. The policy intention is to ensure that sufficient numbers of judicial members are available to assist with managing fluctuations in volumes of appeal cases and improving resilience in the Upper Tribunal.

Impact of the proposals

Overall, these proposals will have minimal positive direct and indirect impacts on children whether as crofters, or as children of crofters or landlords, and will not impact children in any manner different to that of other age groups.

3. Please provide a summary of the evidence gathered which will be used to inform your decision-making and the content of the proposal

3.1 Evidence from existing research/reports/policy expertise

3.1.1 Crofting

The [Crofting Commission Annual Report and Accounts](#), indicates that there are 14,890 crofters who occupy 21,673 crofts. Of those crofters, approximately 0.1% are aged under 21 years. The Commission has confirmed that according to the Register of Crofts, as at March 2025, there are two crofters who are under 18 years, one is aged 17 and one is aged 16. The age of legal capacity in Scotland is 16 years, so any crofters who are under 16, would have an appointed legal guardian to help manage the croft and meet the legal rights and responsibilities over the land. Based on this evidence, the number of children and young people who could be affected by the proposals for crofting law reform, as a crofter in their own right, would be very small.

According to the [Economic condition of crofting survey: 2019 to 2022](#), crofters are, on average, over 54 years, with 42% of crofters aged 65 and over. Based on this evidence, it is expected that the number of children and young people who could be affected by the proposals for crofting law reform, indirectly as the child of a crofter, landlord or landowner, would be relatively small.

Having considered the evidence, although there is potential for children to be effected by the proposals contained in the Bill, the nature of the Bill means that the impact on children is neither positive nor negative.

3.1.2 Scottish Land Court

The amalgamation of the Land Court and Lands Tribunal is essentially administrative in nature. The two existing jurisdictions will be merged into one expanded Scottish Land Court. The same can be said for the Upper Tribunal membership proposals, which relate to maximising available judicial resources.

No evidence exists which is relevant to the assessment.

3.2 Evidence from consultation/feedback from stakeholders

3.2.1 Crofting

The proposals have been developed through extensive engagement with a wide range of stakeholders in the Crofting Bill Group, comprising:

- Crofting Commission
- Highlands & Islands Enterprise
- Scottish Crofting Federation
- National Farmers Union Scotland
- NatureScot
- Law Society of Scotland
- Scottish Land Court
- Scottish Land & Estates
- Registers of Scotland
- Highlands and Islands Agricultural Support Group – Shetland Islands Council
- Crofting Solicitors

There was also an open invitation to the Convention of Scottish Local Authorities and Crofting Commission Commissioners to attend Bill Group meetings. Of those attending as a representative of an organisation/body, there were a number who were crofters.

During the development of the proposals, the Crofting Bill Team held 19 meetings with the Crofting Bill Group. Given the importance of assessing the impact of each of

the proposals on everyone within the sector, including crofters and their families, officials and stakeholders considered the consequences of these changes as they were being developed. The proposals were also discussed at other stakeholder meetings and eight meetings of the Cross-Party Group on Crofting.

In June 2024, the Scottish Government launched a 12-week public consultation to seek views on proposals for crofting law reform. This included:

- A public consultation paper published on the Scottish Government website and supported by a Citizen Space survey; and
- Target engagement during the consultation period, attended by those most likely to be affected, and groups representing their interests;

The consultation survey, delivered online via Citizen Space, set out a series of questions covering the following key areas:

- strengthening residency and land use
- entry to crofting
- enhanced Crofting Commission powers
- crofting communities
- simplifying crofting
- clarifications and corrections; and
- use of common grazings

In addition, 15 in-person events, attended by over 250 individuals, were held across the crofting counties to promote the consultation and allow crofters to have their say and learn more about the proposals being considered.

A total of 163 responses to the consultation were received, 83% were from individuals and 17% were organisational responses. None of the consultation responses, submitted online or via email, or in the in-person events, identified any impact on children and young people's rights. The crofting proposals will impact all members of the crofting community equally, irrespective of age, gender etc.

The Scottish Government published the [analysis of responses](#) to the public consultation on 15 November 2024.

3.2.2 Scottish Land Court

The Scottish Government published a consultation paper, 'The Future of the Land Court and the Lands Tribunal', on 27 July 2020. The Scottish Government consulted on various issues relating to the Land Court and the Lands Tribunal. The main questions were whether the two bodies should be amalgamated; if so, whether the resultant body should be a court or a tribunal; and whether the statutory requirement that there should be a Gaelic speaking member of the Land Court should be retained. An analysis of responses was published in June 2021.

A total of 58 responses to the consultation were received. Respondents included individuals and organisations, and came from a range of interests including academics with an interest in land use or environmental matters, judicial or legal representative groups, public bodies, non-departmental public bodies, land use management representative body and farmers' representative bodies. None of the consultation responses identified any impacts on children and young people's rights.

3.3 Evidence from consultation/feedback directly from children and young people

3.3.1 Crofting

We did not receive any responses to the consultation from organisations representing children and young people under 18, however, this was expected given the focused nature of the proposed legislation which concentrates on the crofting sector. That said, there were a number of young crofters, and aspiring crofters under the age of 18, that attended some of the in-person events.

Our assessment is that further targeted consultation with children and young people under 18, and/or the bodies representing them, is not necessary. We have reached this conclusion based on the evidence that of the 14,890 crofters only two are aged under 18. Whilst this number could increase, the evidence gathered from the Economic Condition of Crofting reports published since 2010, suggest that the age profile of crofters has not varied significantly over the years. Although we do see a healthy number of new entrants each year - with around 26% aged 40 or under - the number aged under 18 remains relatively unchanged. As a result, we have concluded that there would be a very small number of individuals, aged under 18 years, who could be directly affected by the proposals, and those individuals would be effected in the same manner as other age groups.

3.3.2 Scottish Land Court

No responses to the consultation were received from organisations representing children and young people under 18, however this was expected given the nature of the proposal which is primarily administrative in nature.

Our assessment is that further targeted consultation with children and young people under 18, and/or bodies representing them, is not necessary. The amalgamation of the Land Court and Lands Tribunal is essentially administrative in nature as are the proposals in respect of Upper Tribunal membership which relate to maximising available judicial resources. The amalgamation will affect all potential litigants equally and individuals under the age of 18 will be affected in the same manner as other age groups.

4. Further to the evidence described at '3' have you identified any 'gaps' in evidence which may prevent determination of impact? If yes, please provide an explanation of how they will be addressed

4.1 Crofting

Although we did not consult directly with children and young people or their representative groups, of the 14,890 crofters across the Highlands and Islands only two are under the age of 18. As a result, further consultation was assessed as unnecessary, and we do not believe that had such focused consultation taken place that any impact on children and young people would have been identified as a result of said consultation.

4.2 Scottish Land Court

Not applicable. Children and young people (or representative groups) were not consulted directly. However, the amalgamation of the Land Court and Lands Tribunal is essentially administrative in nature as are the proposals in respect of Upper Tribunal membership, which relate to maximising available judicial resources and further consultation has been assessed as unnecessary.

5. Analysis of Evidence

5.1 Crofting

The evidence, as set out at Section 1-3 above, suggests that the proposed legislation is not expected to impact on the rights of children and young people other than to a small extent, and in no manner different to that of other age groups. Although there is potential for children to be affected by the proposals, due to the nature of the Bill, we consider that the proposals will neither positively nor negatively impact children.

5.2 Scottish Land Court

Not applicable. The proposed amalgamation and proposals relating to Upper Tribunal membership are not expected to impact on the rights of children and young people in a manner different to that of other age groups. The amalgamation is primarily administrative in nature. The same can be said for the Upper Tribunal membership proposals, which relate to maximising available judicial resource.

6. What changes (if any) have been made to the proposal as a result of this assessment?

No changes were made as a result of this assessment due to the fact that both the crofting and Scottish Land Court/Tribunals aspects of the Bill were assessed as having no impact or a neutral impact, therefore no changes were necessary.

Conclusion

7. As a result of the evidence gathered and analysed against all UNCRC requirements, what is the potential overall impact of this proposal on children's rights?

Neutral / No impact.

8. If you have identified a positive impact on children's rights, please describe below how the proposal will protect, respect, and fulfil children's rights in Scotland.

Not applicable.

9. If a negative impact has been identified, please describe it below. Is there a risk this could potentially amount to an incompatibility?

Not applicable.

9.1 Mitigation Record

What options have been considered to modify the proposal in order to mitigate a negative impact or potential incompatibility? Please summarise mitigation actions taken below.

Not applicable.

9.2 Issue or risk identified and relevant UNCRC requirement

Not applicable.

9.3 Action Taken/ To Be Taken

Not applicable.

9.4 Date action to be taken or was taken

Not applicable.

10. As a result of the evidence gathered and analysed against all wellbeing indicators, will the proposal contribute to the wellbeing of children and young people in Scotland?

Safe:	Not Applicable
Healthy:	Not Applicable
Achieving:	Not Applicable
Nurtured:	Not Applicable
Active:	Not Applicable
Respected:	Not Applicable
Responsible:	Not Applicable
Included:	Not Applicable

11. How will you communicate to children and young people the impact that the proposal will have on their rights?

The CRWIA will be published with all other impact assessments following the introduction of the legislation, and will therefore be in the public domain for those wishing to access it.

We have no intention of publishing a child friendly CRWIA given the minimal direct and indirect impact of the proposed legislation on children and young people. The CRWIA will be accessibility checked in the normal way for all Scottish Government publications to take steps to ensure those reading the CRWIA can understand its content and reasoning behind the neutral/ no impact assessment.

We will share information on the introduction of the Bill with crofting representative groups.

12. Post Assessment Review and sign-off

12.1 Planning for the review of impact on children's rights and wellbeing

If evidence emerges on the impacts on children and young people during the passage of the Bill through Parliament, this will be reviewed against the existing CRWIA.

12.2 Sign off

Policy Lead Signature & Date of Sign Off: Aileen Rore, 12 May 2025

Deputy Director Signature & Date of Sign Off: John Kerr, 14 May 2025

Date CRWIA team first contacted: March 2024



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