

Woodland Crofts Q & A

(Text in green indicates a link to existing guidance notes)

What is a woodland croft?

1. What is a croft?

A croft is a unit of land, whose occupation and cultivation is subject to the Crofting Acts, recorded in the Crofters Commission Register of Crofts. It is NOT a house.

2. What is the Crofters Commission?

The Crofters Commission is the statutory regulator for Crofting. It is a modern Non-Departmental Public Body answerable to the Scottish Government and, through them, to the Scottish Parliament.

3. What is a woodland croft?

A woodland croft is a croft with sufficient tree cover overall to be considered a woodland under UK forestry policy (but see also Q13 below); it is thus subject to forestry regulation. Note however that 'woodland croft' is a descriptive term only – crofting legislation does not recognise woodland crofts as distinct from any other croft.

4. How have woodland crofts arisen?

There are a number of ways in which woodland crofts have developed. They may be existing crofts which have historically been wooded; or they may have been traditional agricultural crofts on which woodland has been established following Crofter Forestry legislation passed in 1991 which enabled the planting of trees for future management.

However the predominant mechanism for the establishment of woodland crofts into the future is expected to be the creation of new crofts from areas of existing woodland.

5. How do you create a new croft?

Under the provisions of the Crofters (Scotland) Act 1993, as amended by the Crofting Reform etc Act 2007, the owner of any land in the crofting counties can apply to the Crofters Commission which has the power to constitute such land as a croft by entering it onto the Register of Crofts.

6. What are the 'crofting counties'?

The crofting counties are the former counties of Argyll, Caithness, Inverness, Orkney, Ross and Cromarty, Sutherland and Shetland. Crofts can also be created outwith the crofting counties in certain areas designated by Scottish Ministers (currently Arran, Bute, the Cumbraes, & Moray).

Note that crofting legislation is complex and the outline given here represents only some of the requirements associated with creating a croft.

For further information on the background to woodland crofts see the guidance note '[What is a woodland croft?](#)'

Benefits of woodland crofts

7. What are the general benefits of woodland crofts?

Crofting is widely recognised for the role it has played in retaining rural populations, contributing to sensitive land management and providing economic opportunities. Crofting is supported by the Scottish Government and its various departments on account of these public benefits. Although woodland crofts are a new opportunity, they are expected to provide similar benefits, with a particular emphasis on those arising from the sustainable management of existing or new woodlands.

8. What can a woodland croft give me?

A woodland croft can provide access to woodland to manage in support of one's lifestyle (for example through the provision of woodfuel), and livelihood (through a woodland based business activity). Such access to woodland is currently rare in Scotland, though more common in Europe. It can also provide a place to live and a site for a business, as well as access to certain grants specific to crofting.

For a tenant, crofting also provides security of tenure, the right of succession, the right to a fair rent and the right to the value of improvements to the croft carried out by the tenant.

For all crofters – owners or tenants – crofting provides a regulated framework of tenure which provides certainty as to the rights and responsibilities of all parties involved.

For further discussion of the potential benefits of woodland crofts see the '[Woodland Crofts Benefits Checklist](#)'

9. Can I build a house on a woodland croft?

Yes, subject to gaining approval from the local planning authority. Note that a house built on land in crofting tenure is considered to be part of the croft. As such it cannot be separated from the croft (eg to be sold independently) without the approval of the Crofters Commission.

Crofting legislation requires that a crofter be resident on, or within 32km, of their croft.

For more information on issues relating to planning and development of woodland crofts see the guidance note '[Woodland Crofts Housing & Development](#)'.

Management of woodland crofts

Woodland crofts are subject to obligations arising from their status as crofts, and also because they are woodlands and therefore subject to UK forestry policy.

10. What are my obligations as a crofter?

As well as the obligation to be resident mentioned above, a crofter has a duty not to misuse or neglect their croft. They are also required to cultivate the croft (which includes use of the land as woodland) or put it to another 'purposeful use'. The exact meanings of all these terms are defined explicitly within crofting legislation.

These obligations apply whether the crofter is an owner-occupier or a tenant.

Croft tenants are also bound to keep to the conditions of their tenancy: these comprise certain statutory conditions enshrined in crofting legislation, plus any other conditions agreed between landlord and tenant.

11. What can I do with my woodland?

Forestry policy requires that woodlands are managed sustainably: the standards required to achieve this are laid out in the UK Forestry Standard. Regulation of forestry, including that on woodland crofts, is carried out by Forestry Commission Scotland (FCS) through a combination of legal powers and incentives for good management.

Depending on the site conditions, woodland can be managed for timber (softwood & hardwood), for fuel and building materials, for wildlife & habitat improvement, or as a setting for other activities eg recreation or enterprises based on other woodland products. Smaller-scale approaches to woodland management, such as using tractor-based equipment for extraction and mobile machinery for local processing, may be especially suitable for woodland crofters.

12. Can I fell trees on a woodland croft?

Yes, but in most situations (apart from minor works) you must apply to FCS for a felling licence giving approval for the felling. This is likely to be subject to conditions, typically relating to the requirement generally to replant or regenerate the felled areas.

Note that in some croft situations, the trees may belong to the landlord, so you would also need their approval to fell them.

13. Do I need trees everywhere on a woodland croft?

No. A well managed woodland should include up to 20% open space, to encourage wildlife, create diversity and protect historic features.

Furthermore areas classed as woodland include trees at varying densities - so more scattered trees and groups may provide space for other activities whilst still qualifying as woodland (woodland is defined as land with trees where the mature trees would cover more than 20% by area (UK Forestry Standard)).

Note that this definition of woodland, together with the obligation to replace trees that have been felled (Q12), means that both land newly planted with trees, and clearfelled areas, are considered woodlands, thus a croft created from either would be considered a woodland croft.

14. Can I have livestock on a woodland croft?

Yes, in principle. Woodland can provide many benefits for livestock such as food and shelter, and the animals themselves can be useful aids to management of certain areas.

However inappropriate grazing can be detrimental to trees and woodlands so livestock should be removed from woodland areas before damage occurs.

15. Can I get grants to help manage a woodland croft?

Yes. Grants are available through the Scotland Rural Development Programme (SRDP). These include grants specific to crofting, and more general land management grants including grants for forestry activities.

In some circumstances a grant may also be available towards the building of a croft house, through the Croft House Grant Scheme (not part of SRDP).

16. Growing trees is a long-term business – how can I make sure I get it right?

The key to good management of a woodland – and integrating this with other activities such as may take place on a croft – is the woodland management plan.

The woodland management plan is a long-term plan that describes the proposed management of a woodland over time. It will include an assessment of the current state of the woodland, and also its management history. It can be used to help support grant applications and in some cases secure necessary permissions eg approval for felling.

A woodland management plan can also usefully be used to integrate management between groups of occupiers, for all their neighbouring woodland, as might be found in a group of woodland crofts set in a wider woodland.

For further information on forest management on a woodland croft see the guidance note '[Woodland Crofts Forest Management](#)' as well as the publication "[Managing Small Woodlands in the Highlands and Islands: A guide for crofters, communities and small woodland owners](#)"

17. Where can I get further support and advice on woodland crofts?

A variety of public agencies can give advice on issues relating to woodland crofts, including Highlands & Islands Enterprise (who are responsible for crofting development), the Crofters Commission (who regulate crofting) and Forestry Commission Scotland (who regulate and support forestry).

In addition there are a number of community-based organisations which can also give support, including the Scottish Crofting Federation, the Community Woodlands Association, and the Highlands Small Communities Housing Trust.

All these organisations have websites providing further information, and links to written guidance on woodland crofts.

Private consultants are also available specialising in crofting and forestry matters.

Obtaining a woodland croft

Woodland crofts are only available in the crofting counties (see Q6 above). There are two main opportunities – individual woodland crofts, and community-based woodland crofts.

18. How do I get a woodland croft?

If you have the means to do so, the most practical route to obtaining an individual woodland croft is to purchase a woodland and then apply to the Crofters Commission to create a croft from it. This is because as yet, pre-existing woodland crofts are not readily available.

If you are unable to do this, your best opportunity is to get involved in a community-based woodland crofts project. This could be by applying for the tenancy of a woodland croft in an existing community project, or helping to stimulate a new project in an area where none yet exists.

19. How can a community establish woodland crofts?

In principle, the mechanism is the same as for an individual: to acquire a woodland and then apply to the Crofters Commission to create a number of crofts from it.

There are however options available to appropriately constituted community groups (but not individuals) to help enable them to acquire assets in general, including woodland. These include purchase under the community right to buy provisions of Land Reform legislation, and acquisition or leasing under the Forestry Commission Scotland's National Forest Land Scheme (NFLS).

20. What is the National Forest Land Scheme (NFLS)?

The NFLS provides a mechanism whereby communities or housing bodies can apply to acquire National Forest Estate (NFE) land, even where the land has not been declared surplus or for sale. If the group can demonstrate that transfer of ownership would deliver significant public benefits, and can meet the scheme criteria relating to community support then acquisition can take place. The NFE is the land managed by FCS on behalf of Scottish Ministers.

21. What options are available under the National Forest Land Scheme?

Community acquisition, for general purposes (which can include woodland crofts, renewables development etc); land for woodland crofts (where the project primarily involves the creation of woodland crofts); land for affordable housing; and the sponsored sale of surplus land (where FCS gives community groups and other bodies the opportunity to purchase land that is surplus).

Leasing is also available as an alternative to purchase for many of these options (but not currently for affordable housing), including community leasing for forestry purposes and community leasing for renewables development.

22. Who can apply to the National Forest Land Scheme?

A properly constituted community group which meets the requirements of the Land Reform (Scotland) Act 2003 can apply. However, as the NFLS is a discretionary scheme, whilst a Company Limited by Guarantee (as required under this Act) is preferred, FCS may consider other suitable types of organisation.

For the affordable housing option, applicants must be Registered Social Landlords, or other appropriate housing bodies (which can include Rural Housing Bodies as defined by the Title Conditions (Scotland) Act 2003).

For the sponsored sale of surplus land, recognised Non-Governmental Organisations can apply, where there is no interest from eligible community groups.

For further details of the NFLS, including the full application process and criteria for eligibility, see the [NFLS guidance](#).

23. How can a community raise funds for a woodland crofts project?

Financing a woodland crofts project is likely to involve a combination of measures. Grants for acquisition and development are available from private trusts and some public funders, such as Highlands & Islands Enterprise. Sale of timber ready for harvest and contributions from beneficiaries - in the form of croft entry fees and/or the sale of affordable housing plots - may also be important, though the timing may require bridging loan finance in the short-term.

Community fundraising, whether through 'traditional' fundraising activities or using alternative 'community investment' models, will be essential to both raise money and demonstrate local support for the project.

How can my community maximise the public benefits of woodland crofts?

Communities usually propose woodland crofts to meet a specific need in their communities, and will apply for approvals, and funding, for purchase on that basis. In order to deliver those objectives, and the wider benefits of woodland crofts recognised by government (see Q7 above), various safeguards may be necessary to protect the public interest.

24. How does the community select tenants for the crofts?

The community should allocate crofts through a fair and transparent selection process. It is appropriate for the community to draw up selection criteria which prioritise certain categories of applicant, to reflect local needs and circumstances. However, these should be reasonable and not weighted to such a degree that other criteria become irrelevant.

For more information on the selection of tenants see the guidance note '[Woodland Crofts Allocation](#)'

25. Will the tenants have the right to buy their woodland croft?

Most existing croft tenants do have the right under crofting law to buy their crofts at 15 times the annual rent – usually a very small sum.

In the situation where a community landowner has purchased woodland at market value to create woodland crofts, often supported by public funding, it would be less appropriate for the tenant to then be able to acquire the croft under such terms – this would represent a significant private gain.

It is therefore expected that in most situations community landowners will withhold the right to buy from new tenancies. This ability to withhold certain rights, including right to buy, is contained within the provisions of the Crofters (Scotland) Act 1993, as amended by the Crofting Reform etc Act 2007.

26. What other conditions might a community landlord apply to my tenancy?

All croft tenancies are let subject to statutory conditions defined in crofting law (Schedule 2 of the Act).

However, these conditions can be varied, by either modifying them or introducing new conditions. Depending on the nature of these changes, prior approval for them may be required from the Scottish Land Court. Some changes – such as withholding the right to buy in Q25 above – are already included in the Act and can simply be notified to the Crofters Commission.

The ability to introduce new conditions can be used by community landlords to safeguard the public interest. One area where this is important will be to ensure continued management of the woodland.

It is likely that woodland crofts will be let by community landlords with a Minute of Agreement, as part of the tenancy conditions, to agree use of the land as woodland as a 'purposeful use' (a croft must either be cultivated or put to another 'purposeful use'). The effect of this is that should a tenant break this agreement they will be in breach of the conditions of their tenancy, and the community landlord can take action against them. This provides stronger protection for the woodland than that offered by forestry regulation alone.

Note: most of the guidance on crofting in this Q & A is based on the provisions of the existing Crofters (Scotland) Act 1993, as amended by the Crofting Reform etc Act 2007. In one or two areas the advice given describes the situation as it will be once the provisions of the Crofting Reform (Scotland) Act 2010 are implemented in full, a process which is underway at the time of writing.