



SCOTTISH EXECUTIVE

CROFT HOUSE GRANT SCHEME

CONSULTATION ON PROPOSALS FOR A REVISED SCHEME

&

THE CROFT HOUSE GRANT (SCOTLAND) SCHEME 2005

Scottish Executive Environment and Rural Affairs Department
August 2005



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PART A

SCOTTISH EXECUTIVE CONSULTATION POLICY

The Scottish Executive Consultation Process

Consultation is an essential and important aspect of Scottish Executive working methods. Given the wide-ranging areas of work of the Scottish Executive, there are many varied types of consultation. However, in general Scottish Executive consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body. Consultation exercises may involve seeking views in a number of different ways, such as public meetings, focus groups or questionnaire exercises.

Typically, [Scottish Executive consultations](#) involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the area of consultation, and they are also placed on the Scottish Executive web site enabling a wider audience to access the paper and submit their responses¹. Copies of all the responses received to consultation exercises (except those where the individual or organisation requested confidentiality) are placed in the Scottish Executive library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4552).

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented.

Access To Consultation Responses

We will make all responses available to the public in the Scottish Executive Library 21 days after the closing date of the consultation, unless confidentiality is requested. All responses not marked confidential will be checked for any potentially defamatory material before being logged in the library or placed on the website.

¹ <http://www.scotland.gov.uk/consultations>

Seconsult – Your Guide To SE Consultation Activity

The Scottish Executive now has an email alert system for [SE consultations](#) ([SEconsult](#)). This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new [SE consultations](#) (including web links). [SEconsult](#) complements, but in no way replaces SE distribution lists, and is designed to allow stakeholders to keep up to date with all [SE consultations](#) activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

PART B

LIST OF CONSULTEES

All Scottish MSPs
All Scottish MPs
All Scottish Lords
All Scottish MEPs
Political Parties
Scottish Parliament

Local Authorities

Scottish Crofting Foundation
NFU Scotland
Scottish Rural Property and Business Association
RICS Scotland
Scottish Estates Business Group
SCVO
COSLA
Equal Opportunities Commission
Commission for Racial Equality
Disability Rights Campaign
Legal Deposit Libraries
NDPBs

PART C

CROFT HOUSE GRANT SCHEME: THE SCHEME

INTRODUCTION

Background

1.1 A crofter is expected to live on or within 16 km of his/her croft. Where there is no house on the croft, or the existing house is inadequate, the crofter usually has no alternative to building a new house or upgrading the existing house to comply with the requirements of crofting tenure. Although croft tenants have difficulty in obtaining finance from commercial lenders, they do have the option of buying and decrofting a house site which enables them to obtain commercial financing. However, particularly in remote crofting areas incomes are often low and the costs of construction can often exceed the market value of property on completion. There are therefore difficulties in financing new construction and upgrading of croft houses. This means that if crofting is to contribute to the Scottish Executive's policy of maintaining population in areas of the Highlands and Islands of Scotland, which suffer from disadvantages of scale, terrain, climate and remoteness, assistance has to be given to encourage the construction and upgrading of these houses.

Aims and Objectives

1.2 The purpose of the Scheme is to improve and maintain the standards of crofter housing with the aim of attracting and retaining people in the more remote areas of the Highlands and Islands.

Provisions of CHGS

1.3 Assistance is provided at the discretion of the Scottish Ministers and on the merits of each case. There is no automatic entitlement to assistance. Even if an applicant meets the basic eligibility criteria, other issues have to be considered before a final decision can be reached.

1.4 CHGS grant is geographically targeted into priority areas; the tables below show the rates of assistance available for the construction of a new house and the rebuilding and improvement of an existing house.

New House

	Geographic Priority Area		
	High	Standard	Low
New House grant	£22,000	£17,000	£11,500

Rebuilding and Improvement

	Geographic Priority Area		
	High	Standard	Low
Rebuilding and Improvement grant	40% of costs up to a maximum grant of £22,000	30% of costs up to a maximum grant of £17,000	20% of costs up to a maximum grant of £11,500

Areas of priority may be reviewed from time to time.

1.5 Assistance for a new house and rebuilding/improvement of an existing house will be payable in 3 instalments.

APPLICANTS

2.1 The applicant must be one of the following –

- a crofting tenant
- an owner occupier of a croft, which was acquired from the landlord within the last 7 years
- a cottar
- a Kyles crofter

And the applicant must be inadequately housed because –

- the present accommodation does not provide sufficient accommodation for his/her family; **or**
- the present accommodation does not meet an adequate standard; **or**
- the applicant currently lives with parents, is at least 21 years old, and can show he/she has worked the croft for at least 2 years

or in need of a house on the croft because –

- the applicant currently lives more than 16 kilometres away; **or**
- the type of agricultural activities requires the applicant's constant presence on the croft; **or**
- the needs of an existing business, require the applicant to live on the croft; **or**
- the applicant currently lives in a council house (or other tenancy)

2.2 Work must not start on the project until written approval to do so is received from the Scottish Executive Environment and Rural Affairs Department. The assisted house must become the applicant's main residence. The applicant must intend to work the croft.

INELIGIBLE

3.1 The scheme is not open to an applicant who –

- is the landlord of the croft or spouse/partner of the Landlord
- is adequately housed within working distance of the croft, unless there are special circumstances, which require the applicant to live on the croft.
- does not intend to work the croft.

3.2 The whole project is ineligible if work has started on any part of it, prior to approval or if the assisted house will not be the applicant's main residence. CHGS **grant** is not available if **grant** is obtained from another public funding agency for the same project, or part thereof.

3.3 Assistance will **normally** be refused in the following circumstances –

- The croft is being used by a member of the applicant's family or the landlord is a member of the applicant's family.
- The applicant whose circumstances have previously been ineligible for assistance, but his/her circumstances have been drastically altered solely in order to meet the eligibility criteria.

The following examples illustrate the last point.

Example 1 An applicant who purchases, decrofts and sells the original croft house to a third party, thus creating a "bareland" croft for him or herself, is not eligible for assistance. Having benefited from the proceeds of a sale, it would be wrong to give the crofter additional public assistance to replace the house.

Example 2. In a situation where an applicant sells a house which was adequate for his/her family and which is within practical working distance of the croft, and subsequently applies for assistance for a new house on the croft, the application would be refused. On that basis, the Department concludes that the applicant gave up a house which was adequate for his/her needs and that there is no justification for support from public funds to build a new house.

New Houses

- Ownership was given up within the last 5 years, of an adequate house, which was within working distance of the croft.
- If a new house on the croft was assisted within the last 15 years, further new house assistance will be refused.

Rebuilding and Improvements

- The proposed improvement work is ineligible.
- If assistance was provided to improve the croft house in the last 10 years, further assistance will be refused.
- The cost of the project is less than £10,000.

NEW HOUSE GRANTS

Grant rates

4.1 The current rates of grant assistance for new houses are as set out in the table below.

	Geographic Priority Area		
	High	Standard	Low
New House grant	£22,000	£17,000	£11,500

Areas of priority may be reviewed from time to time.

Eligible work

4.2

- New houses should have at least 3 apartments (two bedrooms and one living area) in addition to the kitchen and bathroom.
- The maximum size of a new house should be related to the size of the household and the needs of the croft.

Ineligible work

4.3

The following are ineligible for assistance –

- mobile homes
- temporary structures
- house to be built away from the croft
- houses with less than 3 apartments (two bedrooms and one living area) in addition to the kitchen and bathroom.
- houses of greater size than meets the needs of the household and the croft.

Conditions

4.4 Conditions apply to the grant for a period of 15 years for a new house. The main grant conditions are set out in paragraph 9 of the attached draft SI.

4.5 Claims for payment of instalments for a new house are as set out in the table below. CHGS payments of the amounts set out below will be made as work progresses, on receipt of a certificate which verifies that work for which the applicant is claiming payment has been completed. The certificate must be signed by a surveyor, contractor or other suitably qualified person.

Stages	Priority Area		
	High	Standard	Low
Roof Tiled and windows in (wind and watertight)	£9,000	£7,000	£5,000
As above plus interior complete	£8,000	£6,000	£4,000
Certificate of Completion obtained	£5,000	£4,000	£2,500
Total	£22,000	£17,000	£11,500

A fee is payable for the preparation of legal documents. £25 will be deducted from the total amount of grant for the preparation and recording of the Notice of Payment of Grant document.

GRANTS FOR HOUSE REBUILDING AND IMPROVEMENT

Grant rates

5.1 The current rates of assistance are as set out in the table below.

	Geographic Priority Area		
	High	Standard	Low
Rebuilding and Improvement grant	40% of costs up to a maximum grant of £22,000	30% of costs up to a maximum grant of £17,000	20% of costs up to a maximum grant of £11,500

Areas of priority may be reviewed from time to time.

5.2 The balance between the total cost and the grant must be met from the applicant's own resources.

Eligible work

5.3 The proposed work must bring the wholecroft house up to an acceptable standard and provide satisfactory accommodation, incorporating all anticipated improvements, for a substantial period of time. Further applications, received within 10 years following the payment of CHGS assistance, for similar or other improvement work for the same house, are likely to be refused. Consequently it is in the applicant's interests to ensure that all necessary work is included in the one application.

5.4 The minimum value of investment for the rebuilding and improvement of a house (including crofter's contribution and CHGS contribution) is £10,000. Estimates should indicate that the cost of the work is at least £10,000. Applications for improvement work costing less than £10,000 will be rejected.

Ineligible work

5.5

- Maintenance work and minor repairs do not qualify for assistance unless they are clearly incidental to or associated with works of improvement which are being assisted e.g. plaster or joinery repairs following first time installation of new bathroom facilities.
- Projects where the total cost of materials and labour is less than £10,000.
- Garages.

5.6 Assistance is not available on improvements which the Scottish Executive Environment and Rural Affairs Department considers of a higher standard than is necessary, given that assistance comes from public funds.

5.7 Conditions apply to the grant for a period of 10 years for house improvements. The main grant conditions are summarised at 4.4 above.

5.8 Claims for rebuilding and improvement grants will be paid in 3 instalments.

A fee of £25 is payable for the preparation of legal documents.

GENERAL

6.1 Applicants are advised against selling a house before applying for CHGS assistance to build a new house. An applicant may regret selling an existing home prematurely if it turns out that he/she is ineligible for CHGS assistance. An application for CHGS assistance should be submitted as soon as possible after an applicant has decided on building plans and before any work is started on the project.

6.2 Depending on the merits of the case, and providing the normal criteria are met, assistance may be granted to a tenant of a “bareland” croft to build a new house. However, assistance should not be expected if the applicant has created the bareland croft, or if grant was paid within the last 15 years for a new house on the croft.

6.3 CHGS assistance is not available for a second or holiday home, cottage for holiday rental or work space. The assisted house must be the applicant’s main residence, and must be situated on the croft in order to work the croft. Assistance must be used for housing purposes only.

6.4 The croft house must be fully insured against damage and destruction by fire. The Department strongly advises that fully comprehensive index linked insurance policy is taken out to cover the full replacement value of the house.

PART D

COMMENTS AND QUESTIONS ON THE DRAFT STATUTORY INSTRUMENT

Introduction

The draft Croft House Grant (Scotland) Scheme 2005 is a draft Statutory Instrument (SI) to create a legal framework for determining eligibility and grant rates. It updates the provisions in the statutory instruments which governed the operation of the Crofters Building Grants and Loans Scheme (CBGLS). The sole reason for needing a new SI is to change the period for which grant conditions apply.

However we have taken the opportunity to set out the whole scheme in some detail. Reflecting the package of changes which Ministers announced in August 2004, it introduces changes to the existing provisions to set new geographically targeted grant rates, and specifies these rates. These were not set out in secondary legislation previously. The following sections of part A describe briefly the purpose of each paragraph of the draft SI, and discuss the changes from the previous scheme.

Paragraph 1

The name of the scheme has changed from the Crofters Building Grants and Loans Scheme (CBGLS) to the Croft House Grant Scheme (CHGS), as loans are no longer available, and to give the scheme a distinct identity.

Paragraph 2 consists of definitions which are self explanatory.

Priority areas are included and the areas covered will be reviewed from time to time.

Paragraph 3 explains that the grants are to build new houses and rebuild and improve existing croft houses for the crofter on the croft. As the overall objective of CHGS is to help retain and attract people to the Highlands and Islands, the scheme assists crofters to improve the quality of crofter housing and increase croft house stock numbers. In doing so the assistance enables crofters to live on their crofts and to work their crofts.

Paragraphs 4 and 5 set the amount of grant applicable in the high, standard and low priority areas, for new houses and for renovating and improving existing croft houses. Geographical targeting of the grant has been introduced to encourage applications from the more remote and disadvantaged areas.

Paragraph 6 (1) says that Ministers will decide on the form of application.

Paragraph 6 (2) says that Ministers can a) refuse an application, b) approve it in part, or c) approve the whole application, and that the grant is subject to certain conditions.

Having regard to the budget for the scheme, paragraphs 4, 5 and 6(2) are intended to allow Ministers to manage expenditure commitments if circumstances dictate that it is necessary to do so. The effect is that lesser amounts of grant may be awarded or that applications could be refused when the consequence of approving an application would lead to spending in excess of the scheme budget. In recent years the scheme spending has been well within budget, however these paragraphs give Ministers the power to control spending properly for the first time. These provisions are relevant only in a situation where demand for assistance is very high.

Paragraph 6 (3) explains that it is a discretionary scheme and that Ministers can vary or withdraw approval.

Q1: Do you agree that expenditure should be controlled using these methods when overall demand exceeds available resources?

Q2: If you do not, what suggestions do you have for controlling expenditure in these circumstances?

Paragraph 6 (4) explains that Ministers can set deadlines on the claiming of grant. The purpose of this is to ensure that the allocation of funding runs smoothly and that crofters are aware how long funds are available to them for specific projects. It enables Ministers to control and make best use of available funding.

Paragraph 6 (5) says that landlords will be made aware of grant applications, and have the opportunity to object.

Paragraph 6 (6) explains that Ministers will decide in the case of an objection, having considered arguments from both sides.

Paragraph 6 (7) explains that if Ministers approve, they may do so subject to modifications.

Paragraph 7 says Ministers decide how claims will be made, and will do what they consider necessary to ensure that conditions continue to be complied with.

Paragraph 8 (1) explains that grant payments will be recorded as at schedule 2 and entered in the Register of Sasines or the Land Register, as appropriate. In doing so prospective purchasers are made aware of the responsibilities they adopt in cases where grant conditions still apply.

Paragraph 8 (2) explains that payment will be made subject to completion of the work.

Paragraph 8 (3) explains that any instalments paid are subject to conditions.

Paragraph 8 (4) explains that instalments can be recovered if work is not completed or if any of the other conditions are broken.

Paragraph 8 (5) states that if maximum grant has been paid, no more grant will be paid.

Paragraph 8 (6) explains that rebuilding or improvement operations must cost at least £10,000.

Paragraph 9 (1) explains that the crofter or his family must live in the house, and that it must be insured against fire damage.

Paragraph 9 (2) explains that the applicant must inform Ministers if the tenancy is to change hands and let Minister know the name of the proposed new tenant.

Paragraph 9 (3) says applicants must let Ministers know if the croft or croft house site is to change hands.

Paragraph 9 (4) provides powers for Ministers' authorised inspectors to visit and enter the house.

Paragraph 9 (5) Applicants must provide Ministers with reassurance that conditions are complied with.

Paragraph 9 (6) The period for which grant conditions apply to new houses is reducing from 20 years to 15 years.

The period for which grant conditions apply to rebuilding and improvements is increasing from 5 years to 10 years in order to reflect the substantial increase in grant available for these operations in the new scheme.

Paragraph 10 (1) If a condition of grant is not complied with, Ministers may demand recovery.

Paragraph 10 (2) If the house is severely damaged or destroyed by fire Ministers may recover grant. Where a grant assisted house was destroyed and a replacement rebuilt, grant would not normally be recovered. Where a grant assisted house was destroyed but it was not rebuilt or replaced, then grant would normally be recovered. This is no different to the policy applied under CBGLS.

Paragraph 10 (3) Provides facilities for applicants who break grant conditions to repay the grant.

Paragraph 10 (4) sets out how the amount to be reclaimed is calculated.

Traditionally the amount to be repaid decreases in proportion to the period for which Conditions of Grant apply. As an example where grant conditions apply for 15 years, and were broken after 5 years, then $\frac{2}{3}$ of the grant would be repayable. We do not propose to change that element of the amount recoverable.

In addition the interest rate which applies in CBGLS is 12.5% per annum and was regarded by many as more punitive than was necessary.

The rate used in other support schemes run by SEERAD is the sterling three month London Inter Bank Offered Rate (LIBOR)(currently 3.5% as at July 2005) plus 1%. However it needs to be sufficiently punitive to act as a deterrent to those who take the grant with the intention of selling the house after only a short time. An interest rate similar to the bank rate may not constitute a deterrent. Consequently the draft SI proposes a half way house and that the interest rate to be applied when recovering grant in the event that a beneficiary breaks grant conditions could be reduced to 10%.

Option A –maintain 12.5% same as CBGLS.

Option B –interest rate set at 10%, representing a relaxation of the current rate, but significantly above the bank rate.

Option C –LIBOR plus 1% similar to the interest rate which applies in other SEERAD schemes.

Q3. Are the calculation and interest rate chosen sufficient to provide a penalty and to discourage applicants from breaking grant conditions, and if not, please record you preference by selecting from the options above ?

Paragraph 10 (5) If there is a gap in the tenancy the assumption is that the grant condition obligations remain with the applicant till the house is re-occupied.

Paragraph 10 (6) states what a failure to comply with grant conditions means, which is in addition to that set out in paragraph 9.

Paragraph 10 (7) in the case of an eligible occupier, grant conditions are broken if the land on which the house is built, changes hands to a non-family member without the consent of Scottish Ministers.

Paragraph 11 (1) Provides powers to enable the Crofters Commission to be agents to administer grants under this scheme.

Paragraph 11 (2) explains that Ministers will decide the extent of the Crofters Commission duties in administering the scheme.

Paragraph 12 explains that the regulations in the 1990 SI are revoked.

Paragraph 13 (1) explains that applications received before 31 December 2004 will continue to be paid and have same conditions as under CBGLS.

Paragraph 13 (2) This provides for the transition between the old and new schemes where the period for which grant conditions apply, has been reduced from 20 years to 15 years. This subparagraph has the effect of lifting grant conditions from new houses completed more than 15 years ago i.e. if the 15-year period has expired, grant conditions no longer apply.

Q4. Do you agree that the benefit of reducing the period for which grant conditions apply to new houses should be extended to those who received CBGLS grant to build a new house more than 15 years ago?

Schedule 1 lists the eligible operations which can be included in rebuilding and improvement operations. Previously the items on which grant could be paid were not set out in the Regulations. Grants for the improvement of roads and water supplies, which were administered separately from the main CBGLS, are included in the list of eligible items. In addition the list has been expanded to reflect the new rebuilding provision.

Q5. Are there any other items which should be included in this list of eligible operations, or any which should be omitted from the list?

Schedule 2 shows the form of the Notice of Payment of a Grant and lists the grant conditions lifted from paragraph 8(1) of the draft SI.

Schedule 3 shows the form of the Notice of Cesser of Conditions of Grant, for use when the grant conditions are lifted in the event of repayment or recovery of grant.

Explanatory note summarises the changes being made by the draft SI.

2005 No.

CROFTERS, COTTARS AND SMALL LANDHOLDERS

The Croft House Grant (Scotland) Scheme 2005

<i>Made</i> - - - -	2005
<i>Laid before the Scottish Parliament</i>	2005
<i>Coming into force</i> - -	2005

The Scottish Ministers, in exercise of the powers conferred on them by sections 42(4), (6), (7), (8), (9), (10), 44 and 45 of the Crofters (Scotland) Act 1993⁽²⁾ and of all other powers enabling them in that behalf, and, after consultation with the Crofters Commission, in accordance with section 42(1) of that Act, hereby make the following Scheme.

PART 1

INTRODUCTORY

Citation and Commencement

1.—(1) This Scheme may be cited as the Croft House Grant (Scotland) Scheme 2005 and shall come into force on 1st January 2005.

Interpretation

2.—(1) In this Scheme—

“Act of 1993” means the Crofters (Scotland) Act 1993;

“Applicant” means a crofter, cottar or eligible occupier who has applied for, or has been awarded, a grant, under this Scheme;

“cottar” has the same meaning as in section 12(5) of the Act of 1993;

“crofter” means the tenant of a croft;

“croft” has the same meaning as in section 3(1) of the Act of 1993;

“eligible occupier” means the owner occupier of a croft which was acquired from the landlord within 7 years of a grant application being received by the Scottish Ministers;

“high level priority area” means those areas which have been identified from time to time as such by the Geographical Targeting Panel as established by the Scottish Ministers for this purpose and which attract the high level of grant as defined in paragraphs 4 and 5 of this Scheme;

⁽²⁾ 1993 (c.44). The functions of the Secretary of State transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

ANNEX A

“standard level priority area” means those areas which have been identified from time to time as such by the foresaid Geographical Targeting Panel and which attract the standard level of grant as defined in paragraphs 4 and 5 of this Scheme;

“low level priority area” means those areas which have been identified from time to time as such by the foresaid Geographical Targeting Panel and which attract the low level of grant as defined in paragraphs 4 and 5 of this Scheme;

“operation” means the erection of a dwellinghouse or any of the operations specified in Schedule 1 to this Scheme.

(2) In these Regulations any reference to the applicant includes a reference-

(a) in the case of a crofter, to any other crofter who becomes tenant of the croft whether as a statutory successor or otherwise and to any person who becomes owner-occupier of the croft;

(b) in the case of a cottar, to any person who succeeds him as tenant of the dwellinghouse in respect of which the grant in question is made;

(c) in the case of an owner-occupier or a person deemed by 12(5) of the Act of 1993 to be a crofter, to their heirs and successors whomsoever of the owner-occupier or of that person as the case may be.

PART 2

GRANTS IN RESPECT OF OPERATIONS

3. Subject to the provisions of this Scheme, the Scottish Ministers may make a grant under this Part of the Scheme to an Applicant towards a) the erection of a dwellinghouse; or b) the rebuilding or improvement of an existing dwellinghouse being an operation of a kind as specified in Schedule 1 to this Scheme. The operation must be carried out, in the case of a crofter or on behalf of a crofter, on the croft, in the case of a cottar on the holding occupied by the cottar, and, in the case of an eligible occupier, on the croft or holding or part of a croft, as the case may be, occupied by that eligible occupier.

Amount of grant

4. The amount of grant approved, payable or paid at the discretion of and by the Scottish Ministers under paragraph 3(1) of this Scheme for the erection of a dwellinghouse—

(a) in a low level priority area shall not exceed £11,500;

(b) in a standard level priority area shall not exceed £17,000;

(c) in a high level priority area shall not exceed £22,000.

5. The amount of grant approved, payable or paid at the discretion of and by the Scottish Ministers under this Part of the Scheme towards the approved cost of an operation shall be:—

(a) in a low level priority area, shall not exceed 20% of the cost of the operation and shall not exceed £11,500;

(b) in a standard level priority area, shall not exceed 30% of the cost of the operation and shall not exceed £17,000;

(c) in a high level priority area, shall not exceed 40% of the cost of the operation and shall not exceed £22,000.

Application for grant

6.—(1) Any application by an Applicant for approval shall be applied for by the Applicant in such form and providing such information as the Scottish Ministers require, and shall be approved by the Scottish Ministers prior to the commencement of any work on the operation.

ANNEX A

(2) The Scottish Ministers may, as they think fit, either refuse to approve an application or approve it in whole or in part for the purposes of a grant under this Part of this Scheme, and any such approval may be given and any such grant may be made, subject to such conditions as the Scottish Ministers think fit.

(3) Any approval of cost for the purposes of a grant under this Part of this Scheme may be varied or withdrawn by the Scottish Ministers.

(4) The Scottish Ministers may specify in approvals for applications under this Part of the Scheme the date by which work may start on the operation, the date by which the first payment of grant shall be claimed and the date by which the final payment of grant shall be claimed by the Applicant.

(5) Where the Applicant is a crofter or cottar, the Scottish Ministers shall send a copy of the notice to the Applicant's landlord and if the landlord, within 14 days of receiving the notice objects in writing to the making of the grant, the Scottish Ministers shall, before making any decision on the application, afford to the Applicant and the landlord an opportunity of making representations thereon in writing to them, or to a person appointed by them to hear the representations and report thereon to them.

(6) After considering any such application and any representations or report thereon, as specified in paragraph 6(5) of this Scheme, the Scottish Ministers shall give to the Applicant notice in writing of their decision and if the Applicant is a crofter or a cottar, shall also give notice of their decision to the Applicant's landlord.

(7) Where the Scottish Ministers approve the application they shall, at the same time as they give to the Applicant notice of their approval, inform the Applicant that the proposed work may be carried out subject to such modifications or conditions as the Scottish Ministers may specify.

Claims for payment of grant

7. The Applicant shall make a claim for the grant in such form as the Scottish Ministers may direct and shall afford to the Scottish Ministers or their duly authorised officers all such facilities as are reasonably necessary to enable the Scottish Ministers to satisfy themselves that any conditions subject to which approval was given have been complied with.

8.—(1) Upon the payment of a grant the Scottish Ministers shall forthwith cause to be recorded in the Register of Sasines or the Land Register of Scotland a notice in the form of Schedule 2 to this Scheme or a form to the like effect specifying the conditions which, by virtue of paragraph 9 of this Scheme, apply to the dwellinghouse.

(2) Upon completion of the work to the satisfaction of the Scottish Ministers, they shall make payment of the grant to the Applicant or a nominee of the Applicant.

(3) The Scottish Ministers may, if so requested by the Applicant, make payment of the grant in instalments at such times, either during the progress of the work or after its completion, and subject to such conditions as the Scottish Ministers may specify.

(4) Where an instalment of a grant has been paid in accordance with paragraph 8(3) of this Scheme and the work in respect of which the grant was to be made is not thereafter completed to the satisfaction of the Scottish Ministers or any condition of payment of the instalment of the grant is not complied with, the amount of the instalments may be recovered from the Applicant in accordance with paragraph 10 of this Scheme as if there had been a failure to comply with a condition such as mentioned in that paragraph.

Restrictions on payment of grant

(5) Where the grant referred to in paragraph 7 is for part of an operation and the maximum amount of grant has been paid, no further grant will be payable for the same operation.

Eligibility

(6) The total cost of any operation or operations specified in Schedule 1 to this Scheme will amount to more than £10,000.

ANNEX A

Conditions of grant

9.—(1) A dwellinghouse in respect of which a grant has been made shall, unless the Scottish Ministers otherwise agree, be—

- (a) occupied by the Applicant or his family;
- (b) maintained by the Applicant, his family or his successors to the satisfaction of the Scottish Ministers;
- (c) kept insured against destruction or damage by fire for such sum and with such insurance company as the Scottish Ministers may from time to time approve, and the receipts for the premiums in respect of the renewal of insurance shall be exhibited to the Scottish Ministers on demand.

(2) The Applicant who proposes to give up the tenancy of a croft shall inform the Scottish Ministers of that intention in writing and provide the name and address of any proposed new tenant.

(3) The Applicant who proposes to let, sell or otherwise dispose of the croft, or the croft house site shall notify the Scottish Ministers.

(4) The Applicant shall permit any person duly authorised by the Scottish Ministers to enter and inspect any such dwellinghouse at all reasonable times for the purpose of ascertaining whether any provision of this Scheme applicable to the dwellinghouse is being complied with and any person so authorised shall, if requested, produce a document showing his authority to do so.

(5) The Scottish Ministers may require the Applicant to provide at such times as the Scottish Ministers may determine a certificate stating that the conditions of this Scheme are being complied with and to provide such other relevant information as the Scottish Ministers may require.

(6) Subject to the provisions of this paragraph, this Scheme and the recorded conditions shall be observed in respect of the dwellinghouse—

- (a) where a grant has been made for erection of a dwellinghouse, for a period of fifteen years;
- (b) where a grant has been made for any of the operations specified in Schedule 1, for a period of ten years.

PART 3 GENERAL

Recovery and repayment of grant

10.—(1) Where, after the date upon which any grant, or instalment of grant, has been paid under this Scheme, the Scottish Ministers are satisfied that the Applicant has not complied, or is not complying, with a condition imposed on the Applicant, the Scottish Ministers may give to the Applicant notice in writing requiring him to make payment of a sum calculated in accordance with paragraph 10(4) of this Scheme.

(2) In the event of any dwellinghouse, for which a grant under this Scheme has been made, being destroyed or so damaged by fire during the said period as to be rendered unfit for human habitation, the Scottish Ministers may give to the Applicant notice in writing requiring him to make payment of a sum calculated in accordance with the provisions of paragraph 10(4) of this Scheme in repayment of the grant and the Applicant shall make payment of that sum to the Scottish Ministers accordingly.

(3) The Applicant may repay the grant by making payment to the Scottish Ministers of a sum calculated in accordance with the provisions of paragraph 10(4) of this Scheme or such lesser amounts as, in the circumstances of any particular case, the Scottish Ministers, in their discretion may determine.

ANNEX A

(4) The sum referred to in paragraphs 10(1) (2) and (3) of this Scheme shall be a sum bearing the same proportion to the grant made in respect of the dwellinghouse in question as the period between the date of the notice given under paragraph 10(1) or paragraph 10(2) of this Scheme in relation to that dwellinghouse or, when paragraph 10(3) of this Scheme applies, the date of repayment, and the expiration of the period specified in paragraph 9(6) of this Scheme, bears to the whole of that period, together with interest at the rate of ten percent per annum, or any other rate determined by the Scottish Ministers, on that sum from the date on which payment of the grant or the instalment was made until repayment.

(5) Where the tenancy of a croft upon which is situated a dwellinghouse, or where a cottar's tenancy of a dwellinghouse, in respect of which a grant has been made terminates, the owner shall be deemed to be the Applicant during any period during which the croft or, as the case may be, the dwellinghouse, remains unlet and unoccupied.

(6) There shall be deemed to have been a failure to comply with the recorded conditions of this Scheme if the Applicant sells, lets or otherwise disposes of the dwellinghouse—

(a) where the Applicant is a crofter, otherwise than—

(i) to a member of his family or;

(ii) to another crofter who in the opinion of the Scottish Ministers requires and will each occupy the dwellinghouse for the purpose of cultivating a croft

(b) in any other case, to a person other than a crofter, who in the opinion of the Scottish Ministers, requires and will occupy the dwellinghouse for the purpose of cultivating a croft.

(7) There shall be deemed to have been a failure to comply with the recorded conditions if the Applicant for a grant is an owner-occupier who, without the prior consent of the Scottish Ministers, assigns or disposes of the land on which that dwellinghouse is built to a person who is not a member of his family.

11.—On the repayment of a grant by the applicant as referred to in paragraph 10 of this Scheme then the recorded conditions shall cease to apply to the dwellinghouse. The Scottish Ministers shall forthwith cause to be recorded in the Register of Sasines or the Land Register a notice in the form of Schedule 3 to this Scheme or a form to the like effect stating that the conditions have ceased to apply.

Crofters Commission to be agents

12.—(1) The Scottish Ministers may hereby appoint the Crofters Commission to be their agent for the purpose of the administration of any grant for or made under this Scheme.

(2) In carrying out its function as agent of the Scottish Ministers under this Scheme, the Crofters Commission shall have the like powers, rights and duties as are conferred upon it by the Scottish Ministers.

Repeal of existing Scheme

13.— The Crofters etc, Building Grants (Scotland) Regulations 1990 are hereby revoked, but without prejudice to anything duly done or any right, obligation or liability acquired, accrued or incurred thereunder.

Transitional Provisions

14.—(1) Notwithstanding the repeal of the Crofters etc Building Grants (Scotland) Regulations 1990 any application for improvement operations received before 31 December 2004 for payment of grant shall be administered and paid under those Regulations.

(2) In the case of a grant being made for the erection or rebuilding of a dwellinghouse under the Crofters etc Building Grants (Scotland) Regulations 1990 and conditions remain to be observed in terms of those regulations at the date of the coming into operation of this regulation then:—

ANNEX A

- (a) where the grant was made on or after 16 May 1990 such conditions shall cease to have effect on the expiry of a period of 15 years, beginning with the day on which in accordance with the provisions of the regulations under which the grant was paid the work of erection or rebuilding was, in the opinion of the Scottish Ministers, completed.

SCHEDULE 1

ELIGIBLE REBUILDING AND IMPROVEMENT OPERATIONS

The approved cost of any operation specified in the following list subject to the discretion of the Scottish Ministers may be included as eligible expenditure under this Scheme

1. full or partial rebuilding of the existing croft house
2. provision of kitchen storage
3. provision of sink with hot and cold water supplies and drainage
4. provision of solid, oil or gas fired cooker
5. provision of fixed bath or shower, wash hand basin and water closet and drainage
6. renewing of defective floors
7. provision of electrical wiring or rewiring to lights and socket outlets
8. provision of central heating
9. additional bedrooms where necessary
10. extensions and alterations to provide satisfactory kitchen and living area
11. extensions and alterations to provide bath/shower rooms
12. construction of a storm porch
13. provision of a fuel store of appropriate size
14. re-roofing which may include a new roof structure
15. renewing rhones and downpipes
16. replacing doors and windows
17. re-pointing or renewing the roughcast to the walls
18. roughcasting the walls for the first time
19. providing a damp-proof course to the walls
20. providing wall insulation
21. providing roof insulation
22. treating woodworm, dry rot or wet rot
23. re-pointing, roughcasting or rebuilding chimney heads, including lead flashings
24. providing foul and rainwater drainage systems
25. lowering surrounding grounds levels, treating the solum, rising damp and providing under floor ventilation
26. connection to the mains electricity supply
27. wiring for the first time to lights and power points in the dwellinghouse
28. the supply and installation of a new private generator
29. connection to the mains gas supply

ANNEX A

30. installation of bulk liquefied petroleum gas tanks (sited above ground only) and associated pipe work and fittings
31. all necessary builder, joiner, plaster and other works in connection with the above items
32. improvement of roads, bridges and boat slips
33. improvement of water supplies

CROFT HOUSE GRANT (SCOTLAND) SCHEME 2005

SCHEDULE 2

Paragraph 8(1)

FORM OF NOTICE, UNDER PARAGRAPH 8(1) OF THE CROFT
HOUSE GRANT (SCOTLAND) SCHEME 2005, OF A PAYMENT OF
A GRANT

CROFTERS (SCOTLAND) ACT 1993

Notice of Payment of Grant

Whereas the Scottish Ministers, in accordance with the provisions of the Crofters (Scotland) Act 1993 and the Croft House Grant (Scotland) Scheme 2005 (hereinafter referred to as “the scheme”) has made a grant of _____ in respect of _____ a dwelling house situated on the subjects described in the Schedule hereto, to _____ (Who, together with any transferee on the intestacy or legatee of his/her who succeeds him/her in occupation of the said subjects and any other person who becomes occupier thereof is hereinafter referred to as “the recipient of the grant”);

Now therefore notice is hereby given in accordance with paragraph 8(1) of the scheme, that for the period of _____ years commencing on the _____ day of _____ the following conditions shall, by virtue of regulation 8(1) of the regulations, be observed with respect to the dwelling house:

- (1) the dwelling house, shall –
 - (a) where the recipient of the grant is a person deemed by virtue of section 3(3) of the said Act of 1993 to be a crofter or is a person who has, after the application for grant but before the making of the grant, become the owner of the holding on which the dwelling house is situated, be occupied as part of that holding by that person or his family;
 - (b) in any other case, be occupied by the recipient of the grant or his family;
- (2) the recipient of the grant shall maintain the building to the satisfaction of the Scottish Ministers;
- (3) the recipient of the grant shall keep the dwelling house insured against destruction or damage by fire for such sum and with such insurance company as the Scottish Ministers may from time to time approve, and the receipts for the premiums in respect of the renewals of such insurance shall be exhibited to the Scottish Ministers on demand;
- (4) the recipient of the grant shall permit any person duly authorised by the Scottish Ministers in that behalf at all reasonable times to enter and inspect the dwelling house for the purpose of ascertaining whether the provisions of the regulations are being complied with in respect of the dwelling house.

Notice is further hereby given that in the event of the breach of any of the foresaid conditions or upon the occurrence of any of the other events specified in paragraph 10 of the scheme, then by virtue of the said paragraph 10 there shall on demand by the Scottish Ministers by notice in writing to that effect become payable to them by the recipient of the grant for the time being a sum being the appropriate proportion specified in paragraph 10(4) of the Scheme of the said grant, together with interest at the rate of ten percent per annum, or any other rate determined by the Scottish Ministers or any other rate determined by the Scottish Ministers, on the said sum from the date on which payment of the said grant was made until the date of payment of the said sum.

Subscribed by _____ being an officer of the Scottish Ministers at Edinburgh on the _____ day of
Two Thousand _____ before this witness:

Scottish Executive Environment and Rural Affairs Department

ANNEX A

SCHEDULE

*Description of subjects, stating
parish and county*

*Name and designation of
present landlord/owner*

ANNEX A

EXPLANATORY NOTE

(This note is not part of the Scheme)

This Scheme revokes and replaces the Crofters etc Building Grants (Scotland) Regulations 1990. The Scheme relates to provision by the Scottish Ministers of assistance by way of grant towards the erection, improvement or rebuilding of dwellinghouses for crofters and certain other occupiers of land in the crofting counties.

The Scheme prescribes the conditions to be observed with respect to dwellinghouses so long as any grant is outstanding and provides for recovery of the grant in the event of a breach of conditions. The maximum period for which the conditions apply in the case of erection of a house has been reduced from 20 years to 15 years. The period for which the conditions apply in the case of rebuilding or improvements to an existing croft will now be 10 years. The Scheme also prescribes the form of notices to be recorded in the Register of Sasines or Land Register.

CONSULTATION RESPONSE FORM

Please complete both sides. This will help ensure we handle your response appropriately:

Name:
Organisation:
Postal Address:

Consultation on Draft Regulations for the CROFT HOUSE GRANT SCHEME (CHGS)

1. Are you responding as: (please tick one box)

	(a) an individual	<input type="checkbox"/> (go to 2a)
	(b) on behalf of a group or organisation	<input type="checkbox"/> (go to 2c)

If responding AS AN INDIVIDUAL:

2a. Do you agree to your response being made available to the public (in SE library and/or on SE website)?

	Yes	<input type="checkbox"/> (go to 2b)
	No, not at all	<input type="checkbox"/> (go to 3)

2b. *Where confidentiality is not requested*, we will make your response available to the public on the following basis (**please tick one** of the following boxes):

	Yes, make my response, name and address all available	<input type="checkbox"/> (go to 3)
	Yes, make my response and name available, but not my address	<input type="checkbox"/> (go to 3)
	Yes, make my response available, but not my name or address	<input type="checkbox"/> (go to 3)

If responding ON BEHALF OF A GROUP OR ORGANISATION:

2c. Your name and address as respondees *will be* made available to the public (in the SE library and/or on SE website). Are you content for your response to be made available also?

	Yes	<input type="checkbox"/> (go to 3)
	No	<input type="checkbox"/> (go to 3)

SHARING RESPONSES/FUTURE ENGAGEMENT

3. We will share your response internally with other SE policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive to contact you again in the future in relation to this consultation response?

	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

CONSULTATION RESPONSE FORM

Please complete both sides.

		YES	NO
Q1	Do you agree that expenditure should be controlled using these methods when overall demand exceeds available resources?		
<u>Comment</u>			
Q2	If you do not agree, what suggestions do you have for controlling expenditure in these circumstances?		
<u>Comment</u>			
Q3	Is the interest rate chosen sufficient to provide a penalty and to discourage applicants from breaking grant conditions, and if not, please indicate your preference ?		
	Other percentage	LIBOR +1%	12.5%
<u>Comment</u>			
Q4	Do you agree that the benefit of reducing the period for which grant conditions apply to new houses should be extended to those who received CBGLS grant to build a new house more than 15 years ago?		
<u>Comment</u>			
Q5	Are there any other items which should be included in this list of eligible operations, or any which should be omitted from the list?		
<u>Comment</u>			
<u>Other Comments</u>			

Note

This form is provided for the convenience of consultees. However, responses to the consultation will be accepted in any format and consultees are not required to use this form when commenting on the proposals set out in this consultation document.

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Astron B42880 08/05

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ISBN 0-7559-4789-4



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