



Crofters (Scotland) Act 1993

1993 CHAPTER 44

Common Grazings

50 Use of common grazings for forestry purposes.

- (1) Where a grazings committee or any crofter [^{F1}who holds a right] in the common grazing proposes that the committee should, in exercise of their power under section 48(4) of this Act, plant trees on, and use as woodlands, any part of the common grazing, the committee shall apply for—
- (a) the approval of the Commission; and
 - (b) the consent of the [^{F2}owner] of the common grazing,
- to the use as woodlands of the part of the common grazing concerned.
- (2) [^{F3}An owner's] consent—
- (a) shall be in writing;
 - (b) shall specify the part of the common grazing to which it relates;
- [^{F4}(bb) may be given subject to conditions provided that those conditions are reasonable;]
- (c) shall be intimated to the Commission by the [^{F5}owner] or the grazings committee;
 - (d) shall not take effect until it is entered in the Register of Crofts; and
 - (e) shall, when entered in that Register, be binding on the successors to the [^{F6}owner's] interest.
- [^{F7}(2A) An owner may refuse consent on (and only on) the grounds that implementation of the proposal would—
- (a) adversely affect the exercise of any rights which he has under or by virtue of Schedule 2 to this Act;
 - (b) prevent an intended resumption by virtue of section 20(1) of this Act;
 - (c) be detrimental to the sound management of the estate which comprises the land;
 - (d) cause hardship to a crofter who shares in the common grazing;
 - (e) cause the owner undue hardship; or

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- (f) lessen significantly the amenity of (either or both)—
- (i) the land;
 - (ii) its surrounding area;
- and without prejudice to subsection (2B) below any refusal shall be in writing and shall specify the grounds of refusal.
- (2B) If, within six weeks after application under subsection (1)(b) above, there has neither been written consent nor written refusal, the owner shall be deemed to have refused the application.
- (2C) If, on an application—
- (a) under sub-paragraph (i) of section 53(1)(e) in relation to a consent applied for under subsection (1)(b) above but refused, the Land Court is not satisfied that any of the grounds mentioned in subsection (2A) above has been made out, it may determine that the consent is to be deemed given, or
 - (b) under sub-paragraph (ii) of that section in relation to a consent so applied for but granted subject to a condition, the Land Court is not satisfied that the condition is reasonable, it may determine that the consent is to be deemed given—
 - (i) free of the condition; or
 - (ii) subject instead to a condition specified in the determination.]
- (3) [^{F8}An owner's] consent shall cease to have effect if the grazings committee have not commenced planting of trees on the part of the common grazing to which the consent relates on the expiry of the period of seven years beginning with the date on which the consent is entered in the Register of Crofts.
- [^{F9}(3A) The Commission shall, on receipt of any application under subsection (1)(a) above, consult as regards the proposal the owner, the crofters who share in the common grazing and such other persons as appear to the Commission to have an interest.
- (3B) The reference in subsection (1) above to using as woodlands is to having the right to exclusive economic and recreational use, including (without prejudice to that generality)—
- (a) felling, removing, selling and replacing the trees in question;
 - (b) collecting trimmings, fallen timber, foliage, sap, flowers, fruit, seeds or nuts for use or sale;
 - (c) grazing animals in the woodlands; and
 - (d) selling timber, timber products and other forestry products,
- except that this subsection is without prejudice to any person's access rights (within the meaning of Part 1 of the Land Reform (Scotland) Act 2003 (asp 2)).
- (3C) Where the owner's consent is, under subsection (2)(bb) above, subject to a condition that land be fenced, or otherwise enclosed, any expenditure incurred in complying with that condition (including expenditure incurred in that connection in maintenance, repair or renewal) shall be met—
- (a) in a case where the applicant is the grazings committee, by that committee, and
 - (b) in any other case, jointly and severally by the crofters sharing in the common grazing.]
- [^{F10}(4) In this section, “owner's consent” means the consent of the owner referred to in subsection (1)(b) above (or a deemed such consent);]

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[^{F11}(5) This section is without prejudice to section 50A of this Act and is subject to the terms of any agreement under that section.]

Textual Amendments

- F1** Words in s. 50(1) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(a)(i)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F2** Word in s. 50(1)(b) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(a)(ii)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F3** Words in s. 50(2) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(b)(i)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F4** S. 50(2)(bb) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(b)(ii)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F5** Word in s. 50(2)(c) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(b)(iii)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F6** Word in s. 50(2)(e) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(b)(iv)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F7** S. 50(2A)-(2C) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(c)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F8** Words in s. 50(3) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(d)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F9** S. 50(3A)-(3C) inserted (28.1.2008) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(e)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/568, art. 2
- F10** S. 50(4) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(f)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.
- F11** S. 50(5) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 26(1)(g)**, 43(3) (with **ss. 40, 43(2)**); S.S.I. 2007/269, art. 2, sch.

Changes to legislation:

There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Section 50.