

CROFTING REFORM ETC. ACT 2007

EXPLANATORY NOTES

BACKGROUND

The Act

Part 4: Common Grazings

Section 28: Contravention of, or failure to comply with, common grazings regulations

124. **Section 28** amends the provisions of section 52 of the 1993 Act so as to provide a new means of enforcing common grazings regulations. As a result of the replacement of the previous section 52(1) with a new section 52(1), breach of grazing regulations will no longer be a criminal offence.
125. A new procedure is put in place by means of new subsections (1) to (1F). These provisions provide for the Commission to intervene at the request of the owner or grazings committee where grazings regulations are not being observed. If the Commission are asked to intervene new section 52(1A) requires them to give notice of the contravention to the person accused of not observing the regulations, the grazings committee and the owner. The Commission, or a person appointed by the Commission, are thereafter required by new section 52(1B) to allow all these parties to make representations about the allegation and evidence may also be heard. If the Commission determine there has been a contravention of or failure to comply with grazings regulations in terms of new section 52(1C) they can require the offender to comply with the regulations and make good any damage. Where an offender does not so comply, new section 52(1D) allows the Commission either to determine that all or part of that person's share in the common grazing is suspended or, if the person is required to make good damage to the grazing, to allow a further period for that to be done. This section also allows the Commission to end a period of suspension. New section 52(1E) provides that when a grazing share has been suspended and a requirement imposed by the Commission is still not complied with, the Commission can extend the period for making good damage done or determine that the share is terminated and apportion it to the other shareholders. New section 52(1F) confirms what other rights are included within the meaning of the term share.
126. It is important to note that each determination by the Commission under section 52(1C), (1D) and (1E) is subject to the appeal provisions in new section 52A (see section 33 of the Act.) This therefore affords the person accused of a breach the opportunity to challenge the Commission's actions in court at each stage.