

# Crofting Reform (Scotland) Act 2010

## 2010 asp 14

### PART 2

#### THE CROFTING REGISTER

##### *Registration of common grazings*

#### **24 First registration of common grazings**

- (1) An unregistered common grazing—
  - (a) must be registered, in the case of a new common grazing, subject to section 51B of the 1993 Act, on the determination under section 51A(1) of that Act to constitute the land as a common grazing;
  - (b) may be registered, in any other case, on an application being made by the Commission.
- (2) Where land is registered under subsection (1), for the purposes of this Act—
  - (a) the land is, from the date of registration, a common grazing; and
  - (b) the land which comprises the common grazing is determined by the description of that land in the registration schedule of the common grazing.
- (3) Nothing in this section affects whether, before the date of registration, the land was a common grazing.
- (4) In this Part, “new common grazing” means land in relation to which the Commission have made a determination, under section 51A(1) of the 1993 Act, to constitute the land as a common grazing.

#### **25 Registration of events affecting registered common grazings**

- (1) The following events in relation to a registered common grazing must be registered, that is—
  - (a) the transfer (whether or not for valuable consideration) of the ownership of any land on which the common grazing is situated;
  - (b) the taking, in relation to the common grazing, of a step mentioned in subsection (2).

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- (2) The steps referred to in subsection (1)(b) are—
- (a) the giving of authorisation to resume the common grazing or part of the common grazing under section 20(1) of the 1993 Act;
  - (b) the granting under section 20(1C) of that Act of an extension of the period for which resumption of the common grazing is authorised;
  - (c) the making of a determination under section 20(1F) of that Act converting a temporary resumption of the common grazing into an ordinary resumption;
  - (d) the making of an order under section 21A of that Act that land resumed under section 20 of that Act is to revert to being a common grazing;
  - (e) the enlargement of the common grazing under section 51 of that Act;
  - (f) the termination of all or part of a person's share in the common grazing under section 52(1E)(b)(i) of that Act;
  - (g) the apportionment—
    - (i) of a share or part of a share in the common grazing under section 52(1E)(b)(ii) of that Act;
    - (ii) of the common grazing, or part of the common grazing, under 52(3) of that Act;
    - (iii) of a part of the common grazing under section 52(4) of that Act;
  - (h) the extension, under subsection (11) of section 52 of that Act, of any period for which a part of the common grazing is apportioned under subsection (10) of that section;
  - (i) the bringing to an end, under subsection (12) of section 52 of that Act, of an apportionment of the common grazing or part of the common grazing made in pursuance of subsection (3) or (4) of that section;
  - (j) the making of a determination under section 52(14) of that Act as to shares in the common grazing;
  - (k) the transfer (whether or not for valuable consideration) by a person who holds a right in the common grazing of that right to another person.
- (3) But no application for registration of a step mentioned in paragraph (g)(iii), or paragraph (i), of subsection (2) need be submitted if an application for registration of such a step is submitted by virtue of section 5.
- (4) The Scottish Ministers may, by regulations, make provision about when ownership is to be treated as transferred for the purposes of subsection (1)(a).
- (5) The Scottish Ministers may, by order, modify subsection (2) so as to—
- (a) add a step to;
  - (b) modify the description of a step in;
  - (c) remove a step from,
- that subsection.

## 26 Applications for registration: common grazings

- (1) An application for—
- (a) first registration of a new common grazing; or
  - (b) registration of an event affecting a registered common grazing (other than one which falls to be submitted by the Commission),

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- and the fee payable in respect of such registration, is to be submitted to the Commission.
- (2) An application for first registration of a new common grazing is to be submitted at the same time as an application under section 51A(1) of the 1993 Act.
  - (3) An application for registration of an event affecting a registered common grazing is to be submitted—
    - (a) in the case of the transfer of the ownership of any land on which the common grazing is situated, by the person to whom such ownership is transferred;
    - (b) in the case of a step mentioned in section 25(2)—
      - (i) in accordance with the requirements of the 1993 Act; or
      - (ii) in the absence of such requirements, as soon as reasonably practicable after the step is taken.
  - (4) In respect of an application submitted to the Commission under this section, the Commission must, subject to section 51B of the 1993 Act and to subsections (5) and (6), forward—
    - (a) the application, together with any comments they may have on it; and
    - (b) the fee payable in respect of it,to the Keeper as soon as reasonably practicable.
  - (5) The Commission may, before forwarding an application for registration to the Keeper, require the applicant to provide them with such further information relating to the application as they consider appropriate.
  - (6) The Commission may refuse to forward an application for registration if—
    - (a) a requirement under subsection (5) is not complied with;
    - (b) the application is frivolous or vexatious;
    - (c) the fee payable in respect of registration has not been tendered;
    - (d) there is a material inaccuracy in the application; or
    - (e) they consider that the Keeper would otherwise not accept the application under section 8(2).
  - (7) Where the Commission refuse to forward an application for registration, section 52A of the 1993 Act applies as if that refusal were a decision of the Commission on an application to them under that Act.
  - (8) An application for first registration of a common grazing by the Commission is to be submitted to the Keeper.
  - (9) Before submitting such an application, the Commission must consult—
    - (a) the owner of the common grazing; and
    - (b) where there is a grazings committee or grazings constable, that committee or that constable.
  - (10) Where there is no grazings committee or grazings constable, the Commission must notify, in such manner as they consider appropriate (including by means of advertisement), all persons who hold a right in the common grazing of the application.
  - (11) Any person notified under subsection (10) may make representations to the Commission in respect of the proposed application.

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- (12) In subsection (6)(d), “material inaccuracy” means an inaccuracy relating to any matter mentioned in section 11(2) (as that section applies, with the modifications specified in schedule 3, to common grazings).
- (13) In this section, “first registration” means the registration of an unregistered common grazing.
- (14) Section 7 does not apply to applications for registration of a common grazing.

## **27 Registration of new common grazings**

- (1) In subsection (1) of section 51A of the 1993 Act (new common grazings), the words from “by entering” to the end of the subsection are repealed.
- (2) After that section insert—

### **“51B Registration of new common grazings**

- (1) Subsection (2) applies where the Commission make a determination to exercise their power under section 51A(1) to constitute land as a common grazing.
- (2) The application for registration of the land in the Crofting Register must not be forwarded to the Keeper under section 26(4) of the 2010 Act—
  - (a) until the period mentioned in section 52A(2)(b) has expired without any appeal to the Land Court being made; or
  - (b) where such an appeal is made, until it is abandoned or the Court confirms the Commission’s determination under section 51A(1).”.

## **28 Application of Act to common grazings**

Schedule 3, which applies certain provisions of this Act relating to crofts to common grazings, has effect.