



# Crofters (Scotland) Act 1993

## 1993 CHAPTER 44

### *Common Grazings*

#### **47 Appointment, etc., of grazings committee or grazings constable.**

(1) The crofters who share in a common grazing may from time to time, at a public meeting [<sup>F1</sup>of which public notification has been given] , appoint a grazings committee of such number as the meeting shall decide; and a person may be appointed to be a member of a grazings committee notwithstanding that he is not a crofter.

<sup>F2</sup>(2) .....

(3) If the crofters who share in a common grazing fail at any time to appoint a grazings committee, the Commission may, after making such inquiry, if any, as they may deem necessary, appoint a grazings committee, or may appoint a person to be grazings constable; and a committee or constable so appointed shall have the like powers and duties as a grazings committee appointed under subsection (1) above.

(4) The term of office of the members of a grazings committee appointed under this section shall be 3 years, and at the expiry of that period a new grazings committee shall be appointed as aforesaid. A retiring member of a committee shall be eligible for re- election.

(5) A majority of the members of a grazings committee shall be a quorum; and any vacancy occurring in the membership of a grazings committee by reason of the death or resignation of a member shall be filled by nomination of the remaining members.

(6) A grazings committee appointed under subsection (1) above, or in the case of a grazings committee appointed under subsection (3) above the Commission, shall appoint some person, whether a member of the committee or not, to be the clerk of the committee.

[<sup>F3</sup>(6A) A person so appointed (or appointed under subsection (8) below to be the clerk of the committee) is in this Act referred to as the “grazings clerk”.]

(7) The term of office of a grazings constable appointed by the Commission under subsection (3) above shall be such as may be specified in the instrument by which

*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

he is appointed, and he shall receive such annual remuneration as the Commission may determine; and such remuneration shall be defrayed by an assessment levied in such manner as the Commission may deem reasonable on the crofters who share in the common grazing.

- (8) If the Commission are satisfied, after making such inquiry, if any, as they may deem necessary, that any or all of the members <sup>F4</sup>... of a grazings committee (however appointed under this section) are not properly carrying out the duties imposed on them [<sup>F5</sup>(or that the grazings clerk is not properly carrying out the duties imposed on him)] under this Act, the Commission may remove from office any or all such members or such clerk and may appoint or provide for the appointment of other persons (whether crofters or not) in their or his place.
- (9) A grazings committee shall pay such annual remuneration to the [<sup>F6</sup>grazings clerk] as they may determine; and they may recover from the crofters sharing in the common [<sup>F7</sup>grazing] all expenditure incurred by them in paying such remuneration.
- (10) For the purposes of the application of this Act to common grazings, any reference therein to a crofter shall include a reference to any person who, not being a crofter, is entitled to share in a common grazing along with crofters.

#### Textual Amendments

- F1** Words in s. 47(1) substituted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), s. 43(3), [sch. 1 para. 2\(14\)\(a\)](#) (with [ss. 40, 43\(2\)](#)); S.S.I. 2007/269, art. 2, sch.
- F2** S. 47(2) repealed (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), s. 43(3), [sch. 1 para. 2\(14\)\(b\)](#) (with [ss. 40, 43\(2\)](#)); S.S.I. 2007/269, art. 2, sch.
- F3** S. 47(6A) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), s. 43(3), [sch. 1 para. 2\(14\)\(c\)](#) (with [ss. 40, 43\(2\)](#)); S.S.I. 2007/269, art. 2, sch.
- F4** Words in s. 47(8) repealed (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), s. 43(3), [sch. 1 para. 2\(14\)\(d\)\(i\)](#) (with [ss. 40, 43\(2\)](#)); S.S.I. 2007/269, art. 2, sch.
- F5** Words in s. 47(8) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), s. 43(3), [sch. 1 para. 2\(14\)\(d\)\(ii\)](#) (with [ss. 40, 43\(2\)](#)); S.S.I. 2007/269, art. 2, sch.
- F6** Words in s. 47(9) substituted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), s. 43(3), [sch. 1 para. 2\(14\)\(e\)\(i\)](#) (with [ss. 40, 43\(2\)](#)); S.S.I. 2007/269, art. 2, sch.
- F7** Word in s. 47(9) substituted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), s. 43(3), [sch. 1 para. 2\(14\)\(e\)\(ii\)](#) (with [ss. 40, 43\(2\)](#)); S.S.I. 2007/269, art. 2, sch.

## 48 Powers and duties of grazings committees.

- (1) It shall be the duty of a grazings committee—
- (a) to maintain the common [<sup>F8</sup>grazing] and to provide, maintain and, if necessary, replace the fixed equipment required in connection [<sup>F9</sup>with such maintenance and with the implementation of any proposal approved under section 50B(11) of this Act] ;
  - (b) to carry out works for the improvement of such grazings and equipment;
  - <sup>F10</sup>(bb) to carry out works in implementation of any such proposal as is mentioned in paragraph (a) above;]
  - (c) to make and administer, with a view to their due observance, regulations (in this Act referred to as “common grazings regulations”) with respect to the management and use of the common [<sup>F11</sup>grazing] :

*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

Provided that nothing in paragraph (a) or (b) above shall preclude a grazings committee from performing the duties therein specified on land other than the common [<sup>F12</sup>grazing] .

- (2) The grazings committee shall give notice to each crofter sharing in the common [<sup>F13</sup>grazing] of any proposals to carry out works in pursuance of the duty imposed by subsection (1)(b) [<sup>F14</sup>or (bb)] above, or to plant trees under subsection (4) below, and the proposed allocation of the expenditure to be incurred in respect of those works or, as the case may be, that planting among such crofters; and any such crofter may within one month of the date of such notice make representations in respect of the proposals or the proposed allocation to the Commission who may approve the proposals or proposed allocation with or without modifications or reject them.
- (3) Notwithstanding section 29(2) of this Act, subsection (2) above shall have effect in a case where such a right is sublet as if any reference to a crofter included a reference to a crofter in whose place a subtenant has come; but no liability to meet expenditure incurred by a grazings committee in the performance of the duties imposed on them by subsection (1)(b) above shall be imposed on such a crofter in respect of any period during which such a subtenancy subsists.
- (4) Subject to section 50 of this Act and to subsections (5) and (6) below, where the grazings committee have obtained the approval and consent referred to in subsection (1) of that section they may plant trees on, and use as woodlands, any part of the common grazing in accordance with the approval and consent.
- [<sup>F15</sup>(4A) Where the grazings committee have obtained the approval referred to in subsection (6) of section 50B of this Act, they may, subject to any conditions imposed under subsection (11) of that section and for the time being in force (and to the approval not having been revoked), use any part of the common grazing in accordance with the proposal.]
- (5) Where any crofter [<sup>F16</sup>who holds a right] in the common grazing requests them to do so, the grazings committee shall exercise their power under subsection (4) above.
- (6) The power of the grazings committee under subsection (4) above shall not be exercised in such a way that the whole of the common grazing is planted with trees and used as woodlands.
- [<sup>F17</sup>(6A) The powers of the grazings committee include the power to raise money (whether by borrowing or otherwise) for the purpose of implementing any proposal approved under section 50B(11) of this Act; but on any occasion they shall only exercise that power if a majority of the grazings committee vote to do so.]
- (7) A person appointed by the Commission shall have power to summon and to attend any meeting of a grazings committee for the purpose of advising them and otherwise assisting them in the performance of their duties.

#### Textual Amendments

- F8** Word in s. 48(1)(a) substituted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), s. 43(3), [sch. 1 para. 2\(15\)\(a\)\(i\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F9** Words in s. 48(1)(a) substituted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), s. 43(3), [sch. 1 para. 2\(15\)\(a\)\(i\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F10** S. 48(1)(bb) inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), s. 43(3), [sch. 1 para. 2\(15\)\(a\)\(ii\)](#) (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

- F11** Word in s. 48(1)(c) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(a)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F12** Word in s. 48(1)(c) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(a)(iv)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F13** Word in s. 48(2) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(b)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F14** Words in s. 48(2) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(b)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F15** S. 48(4A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(c)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F16** Words in s. 48(5) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(d)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F17** S. 48(6A) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(15)(e)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

#### 49 Common grazings regulations.

- (1) Every grazings committee shall, within 6 months after being required by the Commission so to do, make and submit to the Commission common grazings regulations.
- (2) Without prejudice to the generality of the power conferred on a grazings committee by section 48(1)(c) of this Act, common grazings regulations shall make provision with respect to the following matters—
  - (a) the recovery by the grazings committee from the crofters sharing in the common [<sup>F18</sup>grazing] of all expenses incurred by the committee in maintaining the common [<sup>F18</sup>grazing] and in providing, maintaining or replacing any fixed equipment required in connection [<sup>F19</sup>with such maintenance or with the implementation of any proposal approved under section 50B(11) of this Act] ;
  - (b) the recovery by the grazings committee from such crofters of all expenses incurred by the committee in the performance of the duties imposed on them by subsection (1)(b) [<sup>F20</sup>or (bb)] , and the exercise of their powers under subsection (4), of section 48 of this Act according to the proposed allocation of expenditure referred to in subsection (2) of that section or, as the case may be, that allocation as approved or modified by the Commission under that subsection;
  - (c) the levying by the grazings committee on, and the recovery by them from, the crofters referred to in paragraph (a) above or, as the case may be, such of the crofters referred to in paragraph (b) above as are liable to pay any expenses as mentioned in that paragraph, in such proportions as may be specified in the regulations, such sums as will in the opinion of the committee be necessary to enable the committee to meet any expenses which they may incur in the performance of the duties imposed on them by paragraphs (a) [<sup>F21</sup>to (bb)] of section 48(1) of this Act;
  - (d) the number and the kind of stock which each crofter is entitled to put on the common [<sup>F22</sup>grazing] ;
  - (e) the alteration of individual soumings where works for the improvement of the common [<sup>F23</sup>grazing] or the fixed equipment required in connection therewith have been carried out and all the crofters have not contributed to the expenses incurred in carrying out such works;
  - (f) where appropriate, the cutting of peats and the collection of seaweed;

*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

- (g) subject to the provisions of this Act, the summoning of meetings of the grazings committee and the procedure and conduct of business at such meetings.
- (3) Common grazings regulations may—
- (a) restrict the use of any part of the common [<sup>F24</sup>grazing] on which works of improvement have been carried out to crofters who contribute towards the expenses incurred by the common grazings committee in carrying out those works;
- (b) where the use of any part of the common [<sup>F25</sup>grazing] is restricted as aforesaid, regulate the number and kinds of stock which each contributing crofter may put on that part and the number and kinds of stock which each crofter (whether or not he is a contributing crofter) may put on the remainder of the common [<sup>F25</sup>grazing] .
- (4) Common grazings regulations made by a grazings committee shall be of no effect unless confirmed by the Commission. The Commission may confirm with or without modification or refuse to confirm any common grazings regulations submitted to them for confirmation, and may fix the date on which the regulations are to come into operation; and if no date is so fixed, the regulations shall come into operation at the expiration of one month from the date of their confirmation.
- (5) If a grazings committee fail within the time limited by subsection (1) above to make and submit to the Commission common grazings regulations or to make and submit to the Commission common grazings regulations which in the opinion of the Commission are sufficient and satisfactory, the Commission may themselves make such common grazings regulations, which shall have the like force and effect as if they had been made by the grazings committee and confirmed by the Commission.
- (6) A grazings committee may from time to time, and, if so required by the Commission, shall within the time limited by such requirement, make further regulations amending the common grazings regulations for the time being in force, and subsections (4) and (5) above shall apply to any such amending regulations subject to any necessary modifications.
- (7) Before confirming, making or amending regulations in accordance with the foregoing provisions of this section, the Commission shall consult the [<sup>F26</sup>owner] of the common [<sup>F27</sup>grazing] to which the regulations relate; and the Commission shall send a copy of any regulations so confirmed, made or amended to the [<sup>F26</sup>owner] and to the grazings committee.
- (8) Common grazings regulations for the time being in force under this section shall have effect notwithstanding anything contrary thereto or inconsistent therewith contained in any lease or other agreement, whether entered into before or after the coming into force of such regulations.
- [<sup>F28</sup>(9) Nothing contained in a scheme a copy of which has been entered, under section 19A of this Act, in the Register of Crofts is, for the purposes of subsection (8) above, an agreement.]

#### Textual Amendments

- F18** Word in s. 49(2)(a) substituted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), s. 43(3), [sch. 1 para. 2\(16\)\(a\)\(i\)](#) (with [ss. 40, 43\(2\)](#)); [S.S.I. 2007/269](#), art. 2, [sch.](#)

*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

- F19** Words in s. 49(2)(a) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(a)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F20** Words in s. 49(2)(b) inserted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(a)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F21** Words in s. 49(2)(c) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(a)(iii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F22** Word in s. 49(2)(d) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(a)(iv)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F23** Word in s. 49(2)(e) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(a)(iv)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F24** Word in s. 49(3)(a) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(b)(i)** (with ss. 40, 43(2)); sch.S.S.I. 2007/269, art. 2,
- F25** Words in s. 49(3)(b) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(b)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F26** Word in s. 49(7) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(c)(i)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F27** Word in s. 49(7) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(16)(c)(ii)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F28** S. 49(9) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 30(2), 43(3)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.

## 50 Use of common grazings for forestry purposes.

- (1) Where a grazings committee or any crofter [<sup>F29</sup>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 [<sup>F30</sup>owner] of the common grazing,
- to the use as woodlands of the part of the common grazing concerned.
- (2) [<sup>F31</sup>An owner's] consent—
- (a) shall be in writing;
  - (b) shall specify the part of the common grazing to which it relates;
- [<sup>F32</sup>(bb) may be given subject to conditions provided that those conditions are reasonable;]
- (c) shall be intimated to the Commission by the [<sup>F33</sup>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 [<sup>F34</sup>owner's] interest.
- [<sup>F35</sup>(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;

*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

- (e) cause the owner undue hardship; or
- (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) [<sup>F36</sup>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.

[<sup>F37</sup>(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);]

[<sup>F38</sup>(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

**F29** 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.

**F30** 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.

**F31** 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.

**F32** 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.

**F33** 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.

**F34** 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.

**F35** 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.

**F36** 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.

*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

- F37** 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.
- F38** 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.

### [<sup>F39</sup>50A Joint forestry ventures etc.

- (1) A crofter who holds a right in a common grazing, or a grazings committee, may, with the agreement of the Commission, enter into a written agreement with the owner of the common grazing that they shall engage in a joint forestry venture to use woodlands as part of the common grazing concerned; and subject to subsection (4) below that agreement shall bind the parties to it and their successors.
- (2) Subject to the terms of any agreement under subsection (1) above, where there are, on part of a common grazing which is to be used as woodlands by virtue of section 50 of this Act, trees other than such as are mentioned in paragraph 11(d) of Schedule 2 to this Act, the owner and the grazings committee may agree—
  - (a) that those trees are to be sold to the committee at current value; or
  - (b) that the owner is to be entitled to a share of the timber obtained from such use, being a share which is proportionate having regard to the numbers, respectively, of those trees and of the trees planted (or obtained from planned natural regeneration of the trees planted) in the course of such use.
- (3) Where an agreement is entered into under subsection (1) or (2) above, a copy of that agreement shall be lodged with the Commission.
- (4) The persons who for the time being are bound by the agreement in question may by written agreement lodged with the Commission under this subsection amend the agreement lodged under subsection (3) above (or as the case may be that agreement as last amended under this subsection).
- (5) Any person who is for the time being bound by an agreement under subsection (2) above may appeal to the Land Court against a valuation carried out by virtue of paragraph (a), or the assessment of a share entitlement carried out by virtue of paragraph (b), of that subsection.
- (6) In an appeal under subsection (5) above, the Land Court may reassess the value or entitlement in question.
- (7) The valuer whose valuation is appealed against may be a witness in the appeal proceedings.
- (8) In subsection (2)(b) above “planned natural regeneration” means regeneration which takes place in accordance with—
  - (a) an agreement entered into under or by virtue of this Act or of any other enactment; or
  - (b) the conditions of—
    - (i) any grant for purposes which include such regeneration and which is paid out of the Scottish Consolidated Fund; or
    - (ii) such other grant of a public nature as may be prescribed.



*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

### Textual Amendments

**F39** S. 50A, 50B inserted (25.6.2007 for the insertion of s. 50A, 28.1.2008 in force in so far as not already in force) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **ss. 26(2), 43(3)** (with [ss. 40, 43\(2\)](#)); [S.S.I. 2007/269](#), art. 2, sch.; [S.S.I. 2007/568](#), art. 2

## 50B Use of common grazing for other purposes

- (1) A crofter who holds a right in a common grazing may propose to the grazings committee (or, if there is no grazings committee, to the grazings constable) that a part of the common grazing be used other than for—
  - (a) grazings or a purpose mentioned in section 52(9) of this Act; or
  - (b) woodlands.
- (2) The use proposed must not be such as would be detrimental to—
  - (a) the use being made, as at the time of application, of the other parts of the common grazing; or
  - (b) the interests of the owner.
- (3) On receipt of a proposal made under subsection (1) above the grazings committee (or as the case may be the grazings constable) shall, for the purpose of there being a discussion and vote on the proposal, summon a meeting of the crofters who share in the common grazing.
- (4) Regulations under section 49(2)(g) of this Act shall, in relation to any meeting so summoned, provide that—
  - (a) the time, place and purpose of the meeting (including the proposal in question) should be—
    - (i) set out in a notice sent by registered post to each of those crofters and to the owner; and
    - (ii) intimated by public notification, at least 28 days before the meeting; and
  - (b) the grazings committee (or grazings constable) shall, in sending such notice to the owner—
    - (i) invite him to give his views as to the proposal; and
    - (ii) afford him the opportunity to discuss it, at such reasonable time before the meeting as is convenient to him, with a member of the committee (or with the grazings constable);
  - (c) at the meeting any views so given (or disclosed in discussion) shall be made known to the crofters attending;
  - (d) subject to subsection (5) below, the vote on the proposal shall be by simple majority of the votes cast by the crofters attending (a crofter being entitled to a single vote for each share in the common grazing which he holds);
  - (e) the result of the vote shall be declared at the meeting; and
  - (f) the owner shall be advised by the grazings committee (or grazings constable), by written notice given within two weeks after the meeting takes place, of its outcome (that is to say, of whether the proposal has been accepted or rejected, of the number of crofters present, of the numbers of votes, including votes by proxy or by post, respectively for and against and of the number of crofters

---

*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

---

attending but abstaining) and, if the vote is in favour of the proposal, of what subsection (6) of this section requires to be done.

- (5) A crofter who is unable to attend the meeting so summoned but who has notified the grazings committee (or grazings constable) of that circumstance may vote by proxy or by post (provided that any vote posted shall be valid only if received by the committee before the meeting).
- (6) If the vote is in favour of the proposal the committee (or grazings constable) shall, in such manner as the Commission may require, apply to the Commission seeking their approval for its implementation.
- (7) On receipt of an application under subsection (6) above the Commission shall—
- (a) consult, as regards the proposal, the owner and any other person who appears to the Commission to have an interest; and
  - (b) give public notification—
    - (i) that the proposal has been made;
    - (ii) that they are considering whether to approve it; and
    - (iii) inviting written comments within such period as shall be specified in the notification.
- (8) Within 28 days after public notification is given under subsection (7)(b) above—
- (a) the owner;
  - (b) any crofter who shares in the grazing; or
  - (c) any member of the crofting community in the locality of the grazing,
- may submit to the Commission an objection as regards the application, being an objection of the description given in section 58A(16) of this Act.
- (9) The 28 days mentioned in subsection (8) above include the day on which the notification in question is given.
- (10) If the Commission think fit, they may hear evidence as regards the proposal.
- (11) The period specified under subsection (7)(b)(iii) above and the period of 28 days mentioned in subsection (8) above both having expired, the Commission may approve or reject the implementation of the proposal and if they give their approval they may, if they think fit, impose conditions as respects that implementation; and they may, if requested by the grazings committee or the owner to review that implementation, decide to carry out such a review, and may by virtue of that decision (if they think fit)—
- (a) either or both—
    - (i) vary or withdraw any such conditions,
    - (ii) impose further conditions, or
  - (b) revoke the approval.
- (12) Where the Commission give approval they are, if—
- (a) the owner so requests; and
  - (b) they are satisfied that the circumstances are as mentioned in subsection (13) below,
- to impose under subsection (11) above a condition that the land is to be enclosed by means of a deer-proof barrier (as defined by section 45(1) of the Deer (Scotland) Act 1996 (c. 58)).
- (13) The circumstances are that—

*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

- (a) implementation of the proposal is likely to result in the land to which the proposal relates becoming more attractive to deer; and
  - (b) there are sufficient reasons for imposing the condition, being reasons relating to—
    - (i) deer management; or
    - (ii) the protection or enhancement of the environment.
- (14) Within two weeks after coming to a decision as respects implementation of the proposal, the Commission shall advise—
- (a) the proposer;
  - (b) the grazings committee (or grazings constable);
  - (c) the owner; and
  - (d) every person who submitted written comments by virtue of subsection (7) or an objection under subsection (8), or gave evidence by virtue of subsection (10), above,
- as to the decision and as to any conditions imposed under subsection (11) above.
- (15) Where the decision is to approve implementation but subsequently the Commission vary or withdraw conditions, impose further conditions or revoke the approval they shall, within two weeks after doing so, advise the persons mentioned in paragraphs (a) to (d) of subsection (14) above accordingly.]

#### Textual Amendments

**F39** S. 50A, 50B inserted (25.6.2007 for the insertion of s. 50A, 28.1.2008 in force in so far as not already in force) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **ss. 26(2), 43(3)** (with [ss. 40, 43\(2\)](#)); [S.S.I. 2007/269](#), art. 2, sch.; [S.S.I. 2007/568](#), art. 2

## 51 Enlargement of common grazings.

- (1) Where the owner of any land to which this Act does not apply agrees to grant rights in any pasture or grazing land to the crofters sharing in any common grazing and that owner and the crofters agree that such land will form part of the said common grazing, then as from the date on which such rights are first exercisable by the crofters, the land shall form part of the common grazing, and this Act shall apply accordingly to the common grazing as so enlarged.
- (2) The owner of any land which becomes part of a common grazing by virtue of subsection (1) above shall give notice to the Commission of the enlargement of that common grazing.

### [<sup>F40</sup>51A New common grazing

- (1) The Commission shall have power, on the application of the owner of any eligible land, to constitute the land as a common grazing by entering it as such, in accordance with section 41 of this Act, in the Register of Crofts; but no such entry shall be made until the period mentioned in section 52A(2) of this Act has elapsed without any appeal to the Land Court being made or until any such appeal timeously made is decided or abandoned.

---

*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

---

- (2) The Commission shall, on receipt of any such application, give public notification of it; and such notification shall specify a period within which comments as regards the application, being comments of the description given in subsection (10) below, may be made.
- (3) After the period mentioned in subsection (2) above has elapsed the Commission—
- (a) shall determine whether to exercise their power under subsection (1) above; and
  - (b) shall give public notification of that determination.
- (4) In so determining the Commission shall have regard to—
- (a) such written comments, if any, as are duly made by virtue of subsection (2) above;
  - (b) the public interest and the interests of the crofting community in the locality of the land; and
  - (c) whether social or economic benefits might be expected as a consequence of constituting the land as a common grazing.
- (5) Land is eligible land for the purposes of subsection (1) above only if it is—
- (a) neither tenanted nor occupied by a cottar;
  - (b) situated in the crofting counties but not constituted as a croft; and
  - (c) not adjacent or contiguous to a croft.
- (6) The owner and the persons who are to share in the common grazing shall agree in writing what the use of the common grazing is to be; and subject to subsection (8) below that agreement shall bind –
- (a) the owner and those persons; and
  - (b) the successors of the owner and of those persons;
- and a copy of the agreement shall be lodged with the Commission.
- (7) The use mentioned in subsection (6) above may be for (any or all)—
- (a) grazings;
  - (b) a purpose mentioned in section 52(9) of this Act;
  - (c) woodlands;
  - (d) a purpose other than is mentioned in paragraphs (a) to (c) above,
- and in the agreement different provision may be made for different parts of the common grazing.
- (8) The persons who for the time being are the owner and the persons sharing in the common grazing may by written agreement lodged with the Commission under this subsection amend the agreement lodged under subsection (6) above (or as the case may be that agreement as last amended under this subsection).
- (9) Section 6 of this Act applies in relation to land constituted as a common grazing under this section as it applies in relation to a croft.
- (10) The description is that the comments are made in writing or in another form which, by reason of its having some permanency, is capable of being used for subsequent reference (as, for example, a recording made on audio or video tape).
- (11) For the purposes of subsection (10) above (and without prejudice to the generality of that subsection), comments are to be treated as made in writing where they are—

*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.]

#### Textual Amendments

**F40** S. 51A inserted (25.6.2007) by [Crofting Reform etc. Act 2007 \(asp 7\)](#), **ss. 27, 43(3)** (with **ss. 40, 43(2)**); [S.S.I. 2007/269](#), **art. 2**, **sch.**

## 52 Miscellaneous provisions as to common grazings, as to lands held runrig, and as to use by crofters of peat bogs, etc.

- (1) Any person who contravenes or fails to comply with any common grazings regulations for the time being in force under section 49 of this Act shall be guilty of an offence and shall be liable on summary conviction to a fine of an amount not exceeding level 1 on the standard scale; and in the case of a continuing offence to a further fine not exceeding 50 pence for each day on which the offence is continued after the grazings committee or the Commission have served notice on him warning him of the offence.
- (2) Where it is prescribed by the common grazings regulations applicable to the common [<sup>F41</sup>grazing] of a township that the right of a crofter to share in such [<sup>F41</sup>grazing] shall be conditional on his making his croft available during the winter season for the accommodation of any stock belonging to other persons sharing in such [<sup>F41</sup>grazing], any crofter may apply to the grazings committee for their consent to the exclusion of such stock from his croft or from part thereof, and if he is dissatisfied with the decision of the committee on such application he may appeal therefrom to the Commission.  
  
Any consent given under this subsection by a grazings committee or, on appeal, by the Commission may be given subject to such conditions, if any, as the committee or the Commission, as the case may be, may think proper.
- (3) The Commission may, on the application of any crofters interested, after consultation with the grazings committee, apportion a common grazing shared by two or more townships into separate parts for the exclusive use of the several townships or may apportion a part of such grazing for the exclusive use of one of the townships.
- (4) The Commission may, on the application of any crofter [<sup>F42</sup>who holds a right in a common grazing, and after consultation with the grazings committee, apportion a part of the] common grazing (including the site of the dwelling-house of the crofter so applying if situated on the common grazing), other than a part on which the grazings committee have planted trees and which they are using as woodlands under section 48(4) of this Act, for the exclusive use of the applicant.
- (5) An application under subsection (4) above shall be competent notwithstanding that every part of the grazing except the part in respect of which the application is made has already been apportioned under that subsection.
- (6) Where the Commission in pursuance of subsection (3) or (4) above apportion to a township or to an individual a part of a common grazing for its or his exclusive use, they may make the apportionment subject to such conditions, including conditions with respect to the fencing or the draining of the apportioned part, as they may think fit.

---

*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

---

- (7) Notwithstanding anything in the <sup>M1</sup>Ground Game Act 1880, it shall be lawful for the crofters interested in a common grazing or in a part of a common grazing apportioned under subsection (3) above—
- (a) to appoint not more than two of their number; and
  - (b) to authorise in writing one person bona fide employed by them for reward, to kill and take ground game on the common grazing or the part thereof, as the case may be; and for the purposes of the said Act of 1880 any person appointed as aforesaid shall be deemed to be the occupier of the common grazing or the part thereof, but shall not have the right to authorise any other person to kill and take ground game, and any person authorised as aforesaid shall be deemed to have been authorised by the occupier of the common grazing or the part thereof to kill and take ground game with firearms or otherwise.
- (8) The Commission may, on the application of any landlord or crofter interested, apportion lands held runrig among the holders thereof in such manner and subject to such conditions as appears to the Commission in the circumstances of the case to be just and expedient.
- (9) The Commission may draw up a scheme regulating the use by crofters on the same estate of peat bogs, or of seaweed for the reasonable purposes of their crofts, or of heather or grass used for thatching purposes, and the charge for the use of all or any of these may be included in the rents fixed for the crofts.
- <sup>F43</sup>(10) Without prejudice to the generality of subsections (3), (4) and (8) above, the Commission may under any of those subsections (either or both)—
- (a) apportion a part for a period;
  - (b) determine that an apportionment shall be subject to review at fixed intervals, which they shall specify.
- (11) The Commission may extend any such period as is mentioned in subsection (10)(a) above on the application of the township which, or as the case may be the crofter who, has exclusive use.
- (12) Without prejudice to subsection (10)(b) above, the Commission may, on the application of that township or crofter or of the grazings committee or owner—
- (a) review an apportionment made in pursuance of subsection (3) or (4) above;
  - (b) (whether or not on such review)—
    - (i) vary or revoke any condition imposed under subsection (6) above;
    - (ii) impose a new condition under that subsection;
    - (iii) bring an apportionment made as mentioned in paragraph (a) above to an end.
- (13) Where—
- (a) a period of apportionment fixed under subsection (10)(a) above (or so fixed and extended under subsection (11) above) comes to an end; or
  - (b) it is determined on review under subsection (10)(b) above, or is determined under subsection (12)(b)(iii) above, that an apportionment is to come to an end,
- the land in question reverts to being a common grazing.
- (14) Where land reverts under subsection (13) above, the Commission may, having regard to the rights held in the common grazing immediately before the apportionment in

---

*Status: Point in time view as at 25/06/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings. (See end of Document for details)*

---

question, make such determination as they consider equitable as to shares in the common grazing.

(15) Subsections (10) to (14) above do not apply as respects land constituted as common grazing under section 51A of this Act.]

---

**Textual Amendments**

- F41** Word in s. 52(2) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), s. 43(3), **sch. 1 para. 2(17)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F42** Words in s. 52(4) substituted (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 29(2), 43(3)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- F43** S. 52(10)-(15) added (25.6.2007) by Crofting Reform etc. Act 2007 (asp 7), **ss. 29(3), 43(3)** (with ss. 40, 43(2)); S.S.I. 2007/269, art. 2, sch.
- 

**Marginal Citations**

- M1** 1880 c. 47.

**Status:**

Point in time view as at 25/06/2007.

**Changes to legislation:**

There are currently no known outstanding effects for the Crofters (Scotland) Act 1993, Cross Heading: Common Grazings.