



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 called in accordance with subsection (2) below, 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.
- (2) Notice of a meeting for the appointment of a grazings committee may be given by any two crofters interested in the common grazing and shall be given by notice published in each of two successive weeks in one or more newspapers circulating in the district in which the township is situated or by notice posted for two successive weeks in such public place or places in that district as may be approved by the Commission.
- (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.

- (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 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 or the clerk of a grazings committee (however appointed under this section) are not properly carrying out the duties imposed on them 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 clerk appointed under subsection (6) or (8) above as they may determine; and they may recover from the crofters sharing in the common grazings 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.

48 Powers and duties of grazings committees

- (1) It shall be the duty of a grazings committee—
- (a) to maintain the common grazings and to provide, maintain and, if necessary, replace the fixed equipment required in connection therewith;
 - (b) to carry out works for the improvement of such grazings and equipment;
 - (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 grazings:
- 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 grazings.
- (2) The grazings committee shall give notice to each crofter sharing in the common grazings of any proposals to carry out works in pursuance of the duty imposed by subsection (1)(b) 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.
- (5) Where any crofter interested 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.
- (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.

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 grazings of all expenses incurred by the committee in maintaining the common grazings and in providing, maintaining or replacing any fixed equipment required in connection therewith;
 - (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), 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) and (b) respectively 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 grazings;
 - (e) the alteration of individual soumings where works for the improvement of the common grazings 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: This is the original version (as it was originally enacted).

- (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 grazings 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 grazings 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 grazings.
- (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 landlord of the common grazings to which the regulations relate; and the Commission shall send a copy of any regulations so confirmed, made or amended to the landlord 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.

50 Use of common grazings for forestry purposes

- (1) Where a grazings committee or any crofter interested 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 landlord of the common grazing,

to the use as woodlands of the part of the common grazing concerned.

- (2) A landlord's consent—
- (a) shall be in writing;
 - (b) shall specify the part of the common grazing to which it relates;
 - (c) shall be intimated to the Commission by the landlord 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 landlord's interest.
- (3) A landlord'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.
- (4) In this section—
- “landlord's consent” means the consent of the landlord referred to in subsection (1)(b) above; and
 - “Register of Crofts” means the Register maintained under section 41 of this Act.

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.

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 grazings of a township that the right of a crofter to share in such grazings 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 grazings, 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.

Status: This is the original version (as it was originally enacted).

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 interested, after consultation with the grazings committee, apportion a part of a 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.
- (7) Notwithstanding anything in the 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.