

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 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.
- ...
- (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.
- (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 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 of a grazings committee (however appointed under this section) are not properly carrying out the duties imposed on them [\(or that the grazings clerk is not properly carrying out the duties imposed on him\)](#) 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 grazings clerk as they may determine; and they may recover from the crofters sharing in the common [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.

48 Powers and duties of grazings committees

- (1) It shall be the duty of a grazings committee—
- (a) to maintain the common [grazing](#) and to provide, maintain and, if necessary, replace the fixed equipment required in connection [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;
 - (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 [grazing](#):
- 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 [grazing](#).
- (2) The grazings committee shall [give notice](#) to each crofter sharing in the common [grazing](#) of any proposals to carry out works in pursuance of the duty imposed by subsection (1)(b) or [\(bb\)](#) above, or to plant trees under

* Refer to footnote 190

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) or 29A(9)¹ of this Act, subsection (2) above shall have effect in a case where such a right is sublet or, as the case may be, let² as if any reference to a crofter included a reference to a crofter in whose place a subtenant or tenant³ 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 or tenancy⁴ 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.
- (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 (9)⁵ 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 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.
- (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(9)⁶ 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.

¹ Words inserted by Schedule 4, paragraph 3(29)(a) to the 2010 Act.

² Words inserted by Schedule 4, paragraph 3(29)(b) to the 2010 Act.

³ Words inserted by Schedule 4, paragraph 3(29)(c) to the 2010 Act.

⁴ Words inserted by Schedule 4, paragraph 3(29)(d) to the 2010 Act.

⁵ Refer to footnote 190

⁶ Refer to footnote 190

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 grazing of all expenses incurred by the committee in maintaining the common grazing and in providing, maintaining or replacing any fixed equipment required in connection with such maintenance or with the implementation of any proposal approved under section 50B(9)* 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) 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) 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 grazing;
 - (e) the alteration of individual soumings where works for the improvement of the common 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;
 - (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.

* Refer to footnote 190

- (3) Common grazings regulations may—
- (a) restrict the use of any part of the common [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 [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 [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 [owner](#) of the common [grazing](#) to which the regulations relate; and the Commission shall send a copy of any regulations so confirmed, made or amended to the [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.
- (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.

49A Grazings committees: duty to report⁷

- (1) Each grazings committee must report to the Commission on—
 - (a) the condition of the common grazing;
 - (b) the condition of every croft of a crofter sharing in the grazing;
 - (c) the condition of every owner-occupied croft of an owner-occupier crofter sharing in the grazing;
 - (d) any other matter the Commission may require.
- (2) Where the committee consider that --
 - (a) a crofter sharing in the grazing is not complying with a duty mentioned in section 5AA, 5B or 5C ;
 - (b) an owner-occupier crofter sharing in the grazing is not complying with a duty mentioned in section 19C(2),the report under subsection (1) must also include information on that matter.
- (3) A report under subsection (1) may also include information on any other matter affecting --
 - (a) the common grazing;
 - (b) crofting in any township associated with the grazing,as the committee consider appropriate.
- (4) The first report under subsection (1) must be submitted as soon as reasonably practicable after the end of the period of 1 year beginning with the day section 38 of the 2010 Act comes into force.
- (5) Each subsequent report must be submitted as soon as reasonably practicable after the end of each successive period of 5 years.

⁷ Section 38 of the 2010 Act inserts new section 49A into the 1993 Act, which requires grazings committees to report breaches of duties to the Commission and sets out a process and requirements for doing so. Subsection (1) sets out the issues on which a grazings committee must report to the Commission. These are the conditions of the common grazing, crofts of tenant and owner-occupier crofters with a share in the grazing and any other matter the Commission may require. Subsection (2) requires a grazings committee's report to also include any breach of duty by a tenant or owner-occupier crofter and subsection (3) allows the report to cover any other information affecting the common grazing or crofting in any township associated with the common grazing the committee consider appropriate. Subsection (4) requires the first grazings committee report to be submitted to the Commission as soon as reasonably practicable after 1 year of this section coming into force and subsection (5) provides for 5-yearly reports to be submitted thereafter.

50 Use of common grazings for forestry purposes

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

- (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);
- (5) This section is without prejudice to section 50A of this Act and is subject to the terms of any agreement under that section.

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 the 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.

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 number of votes, including votes by proxy or by post, respectively for and against and of the number of crofters 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) shall⁸ apply to the Commission seeking their approval for its implementation.

9

51 Enlargement of common grazings¹⁰

- (1) This section applies where—
- (a) an owner of land to which this Act does not apply agrees to grant rights in any pasture or grazing land to the crofters sharing in a common grazing; and
 - (b) the owner and the crofters agree that such land will form part of the common grazing.

⁸ Words “in such manner as the Commission may require” repealed by Schedule 4, paragraph 3(30)(a) to the 2010 Act.

⁹ Subsections (7) to (15) repealed by Schedule 4, paragraph 3(30)(b) to the 2010 Act.

¹⁰ Section 47 of the 2010 Act provides a replacement section 51 in the 1993 Act to align procedures for the enlargement of common grazings with those for the enlargement of crofts. Subsection (1) provides that this section applies when an owner provides non-croft land to enlarge a common grazing with the agreement of the existing shareholders. Subsection (2) allows the owner and crofters to apply jointly to the Commission for a direction for the land to form part of the common grazing. Subsection (3) requires the Commission, in approving the enlargement application, to be satisfied that the enlargement would benefit the common grazing or the crofters sharing in it. Subsection (4) provides that, where the common grazing is unregistered, the enlargement is effective from the date of the direction or the date on which the rights are first exercisable. Subsection (5) provides that the enlargement of a registered common grazing cannot take effect unless an application to register the enlargement is submitted within 3 months of the direction being made and only takes effect on the date of registration.

- (2) The owner and the crofters may apply jointly to the Commission for a direction that the land is to form part of the common grazing.
- (3) The Commission may make a direction if they are satisfied that the enlargement of the common grazing would be of benefit to the common grazing or the crofters sharing in it.
- (4) Where the Commission make a direction in relation to an unregistered common grazing, the land forms part of the common grazing from the later of—
 - (a) the date of the direction; or
 - (b) the date on which the rights mentioned in subsection (1)(a) are first exercisable.
- (5) Where the Commission make a direction in relation to a registered common grazing—
 - (a) the direction expires at the end of the period of 3 months beginning with the date on which the direction is made unless an application for registration of the enlargement of the common grazing is submitted by virtue of section 25 of the 2010 Act before the expiry of that period;
 - (b) the enlargement takes effect on the date of registration.

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 grazing¹¹.
- (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.

¹¹ Words repealed by section 27(1) of the 2010 Act.

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

51B Registration of new common grazings

- (1) Subsection (2) applies where the Commission make a determination to exercise their power under section 51A(I) 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 52(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 a determination under section 51A(1).

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

- (1) Where it is averred by the grazings committee or the owner that a person has contravened, or failed to comply with, any common grazings regulations for the time being in force under section 49 of this Act, the committee or as the case may be the owner may apply to the Commission for a determination in the matter.
- (1A) On receipt of an application made under subsection (1) above the Commission --
 - (a) shall serve notice on the person of the averment; and
 - (b) shall send a copy of that notice to the grazings committee and to the owner.
- (1B) The person, the committee and the owner shall all be afforded the opportunity to make representations as regards the averment and if the Commission think fit the Commission may hear evidence in the matter.
- (1C) If the Commission determine that the averred contravention or failure has occurred they may require the person --
 - (a) to conform with the regulation in question, and
 - (b) to make good, within such reasonable period as they shall specify, any damage which has directly resulted from the occurrence.
- (1D) Where --
 - (a) a requirement imposed under subsection (1C) above is not complied with (and subsection (1E) below does not apply), the Commission --
 - (i) may determine that all or part of the person's share in the common grazing is suspended for such period as they shall specify; and
 - (ii) if the non-compliance consists in a failure to make good damage within the period specified under subsection (1C)(b) above, may require it to be made good within such further period as they may specify,

- (b) all requirements imposed under subsection (1C)(a) above and any requirement imposed under sub-paragraph (ii) of paragraph (a) above (whether or not as that sub-paragraph applies by virtue of subsection (1E)(a) below) are complied with, the Commission may end a suspension imposed under sub-paragraph (i) of that paragraph.
- (1E) Where, while all or part of the person's share in the common grazing is suspended by virtue of subsection (1D)(a)(i) above, a requirement imposed under subsection (1C)(a) above is not complied with as regards so much of the share as is not suspended, or as the case may be a requirement imposed under subsection (1D)(a)(ii) above is not complied with, the Commission --
- (a) may (but on one occasion only) extend either or both periods mentioned in subsection (1D)(a) above; or
- (b) may --
- (i) determine that all or part of the person's share is terminated; and
- (ii) apportion the share or part to other persons sharing in the common grazing.
- ¹²
- (1EA) Where the Commission make a determination under subsection (1E) that all or part of a person's share in a registered common grazing is terminated—
- (a) the Commission must, as soon as reasonably practicable after making the determination, submit an application for registration of the termination by virtue of section 25 of the 2010 Act;
- (b) the termination takes effect on the date of registration.
- (1EB) Any apportionment of all or part of a person's share in a registered common grazing under subsection (1E) above takes effect, as respects an application for registration of the apportionment by virtue of section 25 of the 2010 Act, on the date of registration.
- (1F) Reference in this section to a share in the common grazing includes reference to any rights and privileges pertaining to that share.
- (2) Where it is prescribed by the common grazings regulations applicable to the common grazing of a township that the right of a crofter to share in such 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 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.

¹² New subsections (1EA) and (1EB) inserted by Schedule 4, paragraph 3(31)(a) to the 2010 Act.

- (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.

13

- (3A) In relation to a registered common grazing—

(a) any apportionment of the common grazing under subsection (3) expires at the end of the period of 3 months beginning with the date on which the common grazing was so apportioned unless an application for registration of the apportionment is submitted by virtue of section 25 of the 2010 Act before the expiry of that period;

(b) the apportionment takes effect on the date of registration.

- (4) The Commission may, on the application of any crofter 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.

14

- (5A) Where an application is made under subsection (4) by the crofter of an unregistered croft, the Commission—

(a) may not apportion a part of the common grazing unless an application for first registration of the croft is submitted before the expiry of the period of 6 months beginning with the date on which the application to apportion a part of the common grazing was made;

(b) need not, during that 6 month period, consider the application to apportion a part of the common grazing until an application for first registration of the croft is submitted.

- (5B) Where an application under subsection (4) by the crofter of a registered croft (other than a first registered croft) is granted—

(a) the apportionment of a part of the common grazing expires at the end of the period of 3 months beginning with the date on which the part was so apportioned unless an application for registration of the apportionment is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the apportionment takes effect on the date of registration.

¹³ New subsection (3A) inserted by Schedule 4, paragraph 3(31)(b) to the 2010 Act.

¹⁴ New subsections (5A) to (5D) inserted by Schedule 4, paragraph 3(31)(c) to the 2010 Act.

- (5C) In relation to a registered common grazing—
- (a) any apportionment of a part of the common grazing under subsection (4) expires at the end of the period of 3 months beginning with the date on which the part was so apportioned unless an application for registration of the apportionment is submitted by virtue of section 25 of the 2010 Act before the expiry of that period;
 - (b) the apportionment of the part takes effect on the date of registration.
- (5D) But subsection (5C) does not apply to an apportionment which takes effect by virtue of subsection (5B).
- (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.
- (7A) Any transfer by a person who holds a right in a registered common grazing of that right to another person takes effect, as respects an application for registration of the transfer by virtue of section 25 of the 2010 Act, on the date of registration¹⁵
- (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.
- (8A) Subsection (5C) applies to an apportionment under subsection (8) of registered lands held runrig as it applies to an apportionment under subsection (4) of a part of a registered common grazing, with the modification that the reference to section 25 is to be construed as a reference to section 32.¹⁶

¹⁵ New subsection (7A) inserted by Schedule 4, paragraph 3(31)(d) to the 2010 Act.

¹⁶ New subsection (8A) inserted by Schedule 4, paragraph 3(31)(e) to the 2010 Act.

- (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.
- (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.

17

(11A) In relation to a registered common grazing—

- (a) any extension under subsection (11) of the period for which a part of a registered common grazing is apportioned ceases to have effect at the end of the period of 3 months beginning with the date on which the period was so extended unless an application for registration of the extension is submitted by virtue of section 25 of the 2010 Act before the expiry of that 3 month period;
 - (b) the extension takes effect on the date of registration.
- (11B) Subsection (11A) applies to registered land held runrig as it applies to a registered common grazing, with the modification that the reference to section 25 is to be construed as a reference to section 32.
- (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.

18

¹⁷ New subsections (11A) and (11B) inserted by Schedule 4, paragraph 3(31)(f) to the 2010 Act.

¹⁸ New subsections (12A) to (12D) inserted by Schedule 4, paragraph 3(31)(g) to the 2010 Act.

(12A) Subsection (12B) applies to an application by the crofter of a registered croft (other than a first registered croft) made under subsection (12) to bring to an end an apportionment made in pursuance of subsection (4).

(12B) Where the application is granted—

(a) the granting of the application expires at the end of the period of 3 months beginning with the date of the granting unless an application for registration of the bringing to an end of the apportionment is submitted by virtue of section 5 of the 2010 Act before the expiry of that period;

(b) the bringing to an end of the apportionment takes effect on the date of registration.

(12C) Where it is determined under subsection (12)(b)(iii) that an apportionment of a registered common grazing is to come to an end, the apportionment comes to an end, as respects an application for registration of the bringing of it to an end by virtue of section 25 of the 2010 Act, on the date of registration.

(12D) But subsection (12C) does not apply to an apportionment the bringing to an end of which takes effect by virtue of subsection (12B).

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

(14A) Any determination under subsection (14) takes effect, as respects an application for registration of the making of the determination by virtue of section 25 of the 2010 Act, on the date of registration.¹⁹

(15) Subsections (10) to (14A)²⁰ above do not apply as respects land constituted as common grazing under section 51A of this Act.

¹⁹ New subsection (14A) inserted by Schedule 4, paragraph 3(31)(h) to the 2010 Act.

²⁰ Words substituted by Schedule 4, paragraph 3(31)(i) to the 2010 Act.