

# Common Grazing Regulations CONSULTATION: RESPONSE FORM



**Please Note:** This form must be returned with your comments to ensure that we handle your response appropriately

## 1. Name/Organisation

Organisation/Name

Scottish Crofting Federation

Title ☒ Mr ☐ Ms ☐ Mrs ☐ Miss ☐ Dr

Please tick as appropriate

Last name

First name



## 2. Postal Address

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## 3. Permission - I am responding as ...

☐ Individual

/

☒ Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (e.g. on the Crofting Commission website)?

Please tick as appropriate ☒ Yes

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☒

Yes, make my response available, but not my name and address ☐

Yes, make my response and name available, but not my address ☐

(c) The name and address of your organisation **will be** made available to the public (on the Crofting Commission website).

Are you content for your **response** to be made available?

Please tick as appropriate

Yes ☒

No ☐

(d) We may share your response with Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

## Consultation Questions

Please record your comments to the following questions:

### Question 1: How to run your Grazing Committee

Sections 1-10 of the reviewed grazing regulation draft template aim to provide clear instruction for the operation of a grazing committee. Would you agree the grazing committee's functions are fully addressed and explained with clarity in these sections of the template document?

☐ Agree ☒ Disagree

**Please indicate where you disagree and expand in the text box:**

☐ Committee Appointment Election, Failure & Registration

☐ Regulations

☐ Term of Office & Objectives of the Committee

☐ Roles, Responsibilities & Duties

☐ Meetings

☐ Finance

☒ Other

**If your comments are to more than one section please reference.**

Question 1: How to run your Grazings Committee

1.1 Appointment of new grazings committee

Why not give statutory requirements by providing a copy of the 1993 Act, s 47?

(d) This is a practical matter but, if it is valid, why should the number of members be decided at a meeting (before nominations are made) when they could be (1) decided once nominations have been received or (2) fixed in the regulations? Should the preferences of the current Commission be incorporated in the regulations?

(g) Why provide reference to 1993 Act, s 47(4) when other references are ignored?

2.1 Appointment of grazings committee

(e) (repeated) Why should the number of members be decided at a meeting (before nominations are made) when they could be (1) decided once nominations have been received or (2) fixed in the regulations? Should the preferences of the current Commission be incorporated in the regulations?

(h) Can there be a retiring member if the committee has gone out of office? Why give reference to 1993 Act, s 47(4) when other references are ignored?

(o) The appointment of a treasurer in addition to the grazings clerk points to the need for remuneration: 1993 Act, s 47(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.

Whilst this is dealt with later (under 10.5 Remuneration of the grazings clerk), there is no statutory authority for remunerating a treasurer. Is this not a problem?

5.1 Duty to make and submit regulations and 5.2 Amendments to regulations during term of office



## Question 2: How to run your common grazing

The aim of sections 11-18 of the regulation template document is to be the operating manual and toolkit for a grazing committee in the management and operation of the common grazing. Do agree these aims are delivered in the content of these sections?

☐ Agree      ☒ Disagree

**Please indicate where you disagree and expand in the text box:**

☐ Management, maintenance of common & Existing fixed equipment

☐ Improvement to common & Fixed equipment

☐ Use of common grazing for other purposes

☐ Use of common grazing for forestry

☐ Joint forestry

☐ Improvement schemes

☐ Review of apportionments

☐ General Operating procedures

☒ Other

**If your comments are to more than one section please reference.**

Question 2: How to run your common grazing

Why not give statutory requirements by providing copy of the 1993 Act, ss 48, 49, 50 & 52?

11 Management & Maintenance; 12 Proposed Improvement; 13 Use for Other Purposes; 14 Use for Forestry Purposes; 15 Joint Forestry Ventures; 16 Review of Improvement Schemes; 17 Review of Apportionments; 18 General Operating Procedures

There are many common grazings that do not require to have all this information in their regulations. It is wasteful and unnecessary to have each grazings committee work their way through regulations that do not apply to them.

There should be clarity as to the applicable statutory requirements and a clear indication when the statutory requirements are departed from or added to.

17(a) This is no better than the Act itself. Why make reference to the subsection? This requires to be recast. (c) This is unnecessary.

18.1(c) We do not think that every common grazing will have the same equivalent.

18.1(j) contains or is included in a designated site in whole or in part?

18.2(b) "stockowner" is a term not in dictionary. This requires to be recast.

18.4(a) adjoining is unclear (b) separating is better.

18.5(a) this is unnecessary. It states the law.

18.5(b) this is confusing. The grazings committee is not party to the "formal sublet missives" if any. The reference to subsection 29(2) is unnecessary. It does not give authority to the regulation.

18.6 this is a strange instruction





### Question 3: Any other comments?

If you wish to make any further comments, please record these in the box below. Additionally, the template regulation document contains a section 'Additional Duties of the Committee' which provides a menu scheme of tailored regulation options for committees to select specifically to their grazing. Please include any comments on these options in this section.

1. Our comments relate to the existing statutory requirements. It is not made clear whether the Crofting Commission intends to seek fresh legislation to enforce new regulations.
  2. As there are clear statutory requirements, it should be made clear when the statutory requirements are departed from or added to.
  3. Why not refer throughout to the Crofters (Scotland) Act 1993 as "the 1993 Act" instead of the tedious "The Act"?
  4. Consideration should be given to providing a handbook with (a) copy of the relevant sections of the 1993 Act and (b) non-regulatory information and advice. This would enable the regulations to be reduced to local matters rather than expanded unnecessarily. I would argue that the regulations should identify the rules to be applied locally and specifically to the common grazing in question. Consider instead:
    - a. statutory requirements
    - b. regulations specifically applicable to the common grazing
    - c. handbook of advice with notes of the Commission's preferences
  5. There is no mention in the 1993 Act of stock clubs. This matter might properly be provided for in the grazings regulations. This and other management tools, such as advice about trading arms and forms of business models might be made available by the Commission to grazings committees.
  6. Terminology: Although the term "common grazing" was rationalised throughout the 1993 Act by Schedule 1 of the Crofting Reform etc Act 2007, it should be remembered that before 2007 "common grazings" did not necessarily imply a plurality of areas.  
This rationalisation did not extend to other terms, viz:  
Grazings committee:  
1993 Act, s 47 (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  
Grazings clerk:  
1993 Act, s 47(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".  
Common grazings regulations:  
1993 Act, s 48(1)(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.  
Comment: It is not within the power of the Commission to change these terms to 'Grazing committee', 'Grazing clerk', 'Common grazing regulations'.
- We do not consider the common grazings regulations should be the "operating manual and toolkit for a grazing committee" but simply regulations for the specific common grazing. Many of the matters included in the template would be better dealt with in a handbook and not in the regulations.