

Draft Template Common Grazing Regulations for the Management and Use of Insert Name Common Grazing

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INTERPRETATION OF TERMS

In these Regulations, unless the context otherwise requires:-

The Act	Crofters (Scotland) Act 1993 (as amended)
Commission	Crofting Commission
Common Grazing	The grazing to which these Regulations apply
Committee	The grazing committee or Grazing Constable for the time being appointed to administer these Regulations
Shareholder	Any person, whether or not they are a crofter, who is entitled to share in the common grazing
Grazing Clerk	Person as appointed by the committee
Grazing Constable	Person appointed by the Crofting Commission
Grazing Entitlement/ Souming	The number and type of stock which each shareholder is entitled to put on the common grazing

1 APPOINTMENT OF NEW GRAZING COMMITTEE

- (1) Not later than one month before the term of office of the existing committee ends, they will notify all shareholders and/or subtenants in writing of a meeting for the appointment of a new committee. At least 14 days notice should be given to all shareholders and the meeting should take place before the term of office of the existing committee ends. The existing committee should also arrange for a Notice to be displayed in a prominent place in the locality of the common grazing and by publishing the Notice in an appropriate form in one or more newspapers circulating in the district in which the common grazings is situated, at least 10 days before the date of the meeting, giving details of the meeting of shareholders to appoint a new grazing committee.
- (2) At the meeting, the Chairperson will invite the shareholders to decide on the number of members who will form the new committee. The Commission prefer a minimum of three people to serve on the committee.
- (3) The majority of committee members should be shareholders.
- (4) A retiring member of a committee will be eligible for re-election.
- (5) The persons so elected must give their agreement to serving on the new committee.
- (6) The elected members of the new committee will then arrange for a meeting at which they will appoint a Grazing Clerk, who need not be a committee member nor a shareholder in the common grazing,
- (7) The new committee and office bearers will take up office immediately.
- (8) The term of office of the members of a grazing committee will be 3 years from the date of the meeting at which they were appointed.
- (9) If the Commission is satisfied after making any enquiry it deems necessary that any or all of the members of the grazing committee, or the Grazing Clerk, are not properly carrying out the duties imposed on them under these Regulations, then 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 place.

2 MEETINGS

Committee Meetings

- (1) No one other than committee members has the right to attend committee meetings, unless invited to attend by the committee. The Grazing Clerk will always be entitled to attend committee meetings even though, in some circumstances, they may not be a member of the Committee.
- (2) All members of the committee are entitled to vote at committee meetings, but no proxy votes are allowed.
- (3) A majority of the members of a grazing committee will be a quorum. A quorum is the number of committee members who must be present at a meeting in order that business can be validly transacted.
- (4) Each shareholder shall be liable for expenses incurred by the committee in carrying out its duties.

- (5) Each shareholder is bound to comply with such instructions and directions as may be given by the committee for the purposes of the Regulations.
- (6) Each shareholder is entitled to attend and vote at:
 - (a) a meeting to discuss an alternative use of the common grazing
 - (b) a meeting held to appoint a grazing committee.

Commission Representation at Meetings

- (7) A person appointed by the Commission shall have power to summon and to attend any meeting of a grazing committee for the purpose of advising them and otherwise assisting them in the performance of their duties.

Voting

- (8) All votes on proposals shall be determined by a simple majority.
- (9) If the business is covered by Section 50B of The Act, and relates to the proposed use of common grazing for purposes other than grazing, peat cutting, seaweed use, thatching or woodland, then each crofter sharing in the common grazings is entitled to a single vote for each share they have in the grazing. The results of any voting in relation to Section 50B of The Act will be declared at the meeting.
- (10) In committee meetings, all members of the committee are entitled to vote but no proxy votes are allowed.
- (11) Proxy votes can be used at:
 - (a) an Annual General Meeting
 - (b) a Special Meeting
 - (c) a meeting to discuss and vote on an alternative use of the common grazing.
- (12) For the above meetings, a shareholder may nominate someone (proxy), to vote on their behalf. The nomination must be in writing, stating the time and date of the meeting at which the proxy vote is to be used, and signed and dated by the shareholder. Proxy votes should be declared at the start of the meeting and written confirmation provided to the Chairperson.
- (13) Proxy votes cannot be used at committee meetings or at meetings to appoint a grazing committee.

3 FINANCE

- (1) All funds received through:
 - (a) Schemes for Development,
 - (b) Compensation under section 20(1) of the 1993 Act or
 - (c) Resumptions, being a share in the value of the land

must be distributed immediately, following receipt of payment to the clerk or committee, amongst shareholders (or, where relevant, subtenants) who are willing for the share payable to them to be paid by the landlord to the clerk for such immediate distribution by the clerk in proportion to the individual's shareholding entitlement/souming.

Committee Expenses

- (2) Where the committee has or will incur expenses in managing and maintaining the common grazing for the purpose of these Regulations or in providing, maintaining or keeping in good repair any fixed equipment for shareholders' use or with the implementation of any proposal approved under section 50B of the Act, each shareholder shall be liable for expenses thus incurred. The level of expenses will be in proportion to the individual's shareholding entitlement.

Remuneration of the Grazing Clerk

- (3) The committee shall agree on an annual payment to be made to the Grazing Clerk and the committee may recover this cost from each shareholder in proportion to their shareholding entitlement/ souming.

Financial Irregularities

- (4) The Commission will not get involved in any matter relating to alleged financial impropriety. This is potentially a civil and/or criminal matter and should be dealt with by the relevant authorities.

4 MANAGEMENT & MAINTENANCE OF THE COMMON GRAZING AND EXISTING FIXED EQUIPMENT

Fixed equipment" includes any building or structure affixed to land and any works on, in, over or under land, and also includes anything grown on land for a purpose other than use after severance from the land, consumption of the thing grown or of produce thereof, or amenity, and, without prejudice to the foregoing generality, includes the following things, that is to say—

- (a)
all permanent buildings necessary for the proper use of the common grazings and all stells, fanks, folds, dippers, pens and boughts necessary for the proper conduct of the common grazings;
- (b)
all permanent fences, including hedges, stone dykes, gate posts and gates;
- (c)
all ditches, open drains and tile drains, conduits and culverts, ponds, sluices, flood banks and main water courses;
- (e)
access or service roads, bridges and fords;
- (f)
water and sewerage systems;
- (g)
electrical installations including generating plant, fixed motors, wiring systems, switches and plug sockets;
- (h)
shelter belts,
- and references to fixed equipment on land shall be construed accordingly.

- (1) It is the duty of the committee to manage the common grazing on behalf of the shareholders and specifically to:-

- (a) maintain the common grazing and provide, maintain and if necessary replace the fixed equipment required in connection with such maintenance
- (b) carry out works for the improvement of the common grazing and equipment
- (c) make and administer Regulations with respect to the management and use of the common grazing.

(2) **Duty to Report**

The grazing committee **must** report to the Commission every five years on the condition 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. The report will be in such form as provided by the Commission.

5 REVIEW OF IMPROVEMENT SCHEMES

- (1) The need for an improvement scheme must be kept under review by the committee.
- (2) If the decision of the committee is to close the scheme, then monies held in account for the scheme will have to be distributed appropriately to the shareholders involved in that scheme.
- (3) Where the grazing Regulations had provided for any restriction in the use of such an improved area, the committee will apply to the Commission for an amendment of the Regulations to have the restriction removed.

6 PROPOSED IMPROVEMENT TO THE COMMON GRAZING AND FIXED EQUIPMENT

- (1) Where any works of improvement are proposed on the common grazing (including the provision of fixed equipment) the committee should *'give notice'* to each shareholder of such proposals and the proposed allocation of expenditure to be incurred in respect of those works among the shareholders.
- (2) The notice must be in writing and should be delivered to the shareholder or left at their proper address or sent to them by post. If the notice is sent by post then it should be sent by registered post or the recorded delivery service, addressed to the shareholder at their last known address.
- (3) The notice should also inform the shareholders of their right to make representations to the Commission in respect of the proposals or the proposed allocation, within one month of the date of the notice.
- (4) Notice must be given to shareholders, even if they have sublet their croft or let it on a short term basis, but no liability for expenditure shall be imposed on the shareholder for the period of the sublet or short term let.
- (5) In cases where representations are received by the Commission, then the Commission may approve the proposals or proposed allocation of expenditure with or without modifications or reject them. In such cases, the committee cannot proceed without formal confirmation from the Commission.
- (6) If proposals are agreed and implemented, then each shareholder is liable to the grazings committee for a proportion of the expenses incurred by the committee according to the proposed allocation of expenditure.

- (7) The use of an improved area of common grazing may be restricted to those who have contributed to it and, if so restricted, then the committee can regulate the number and kinds of stock which each contributing crofter may put on that area 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.
- (8) The contributors to an improvement scheme shall be bound to comply with the relevant instructions and directions given by the committee.

7 STOCKING OF COMMON GRAZING

Shares, grazing entitlement and seasonal allocation of unused rights

- (1) The shareholders, their respective rights in the common grazing, together with the crofts or non-croft holdings to which the right to graze pertains is shown in **Schedule 1**.
- (2) For the purposes of calculating an equal grazing entitlement right in the common grazing, one cow shall be deemed equivalent to seven sheep
- (3) The calves and lambs from the shareholders' breeding stock of each year will not be taken into account in making up the grazing entitlement.
- (4) Shareholders are not allowed to keep any stock on the common grazing in excess of their grazing entitlement, except as approved by the committee.
- (5) All shareholders who use the Common Grazing for livestock grazing purposes should provide both the numbers and type of stock concerned to the Grazings Committee on a date(s) as specified by the Committee.
- (8) The committee has authority to collect from the stockholders, payment to cover the stock management costs based on a levy per head of stock.
- (9) The committee is responsible for meeting environmental obligations where a common grazing contains a designated site, if applicable
- (10) The apportionment of a full common grazing share in the common grazing would extinguish the crofter's interest in that common grazing, albeit that such interest could be re-acquired if the apportionment were to be reversed. In the period between the apportionment taking effect and its reversal (if that ever took effect) the crofter would have no shareholder interest in the common grazing.

Gathering and Control of Stock

- (11) The gathering of livestock on a common grazing for communal husbandry practices or stock removal may be a requirement of all shareholders and will be pre-arranged by the grazing committee. Additionally, shareholders may gather their own stock to address issues arising from animal ill-health or accident at any time as necessary for the welfare of the livestock or to comply with a request from a Government inspection body. Any other gathering activity of livestock on the common grazing requires the permission of the grazing committee.
- (12) Any stock which, in the committee's opinion, cannot be kept on the common grazing by good stock management, must be kept on the stockowner's individual croft or non-croft holding.

Animal Health & Welfare

- (13) Shareholders are required under EC legislation to comply with Statutory Management Requirements as stated under the Cross Compliance Regulations relating to the keeping and husbandry of livestock.
- (14) The grazing committee shall ensure communal management husbandry operations on the grazing are compliant with statutory management requirements.

Area of the Common Grazing etc.

- (15) For details of the boundaries of the common grazing together with information on any apportionments and resumptions please refer to your registered common grazing on the Register of Scotland website <https://www.ros.gov.uk/services/registration/crofting-register>

SCHEDULE 1

LIST SHOWING THE NUMBER AND TYPE OF STOCK WHICH EACH SHAREHOLDER IS ENTITLED TO PUT ON THE COMMON GRAZING