

# **CROFTING REFORM ETC. ACT 2007**

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## **EXPLANATORY NOTES**

### **BACKGROUND**

#### *The Act*

#### **Part 4: Common Grazings**

##### *Section 26: Use of common grazing*

108. This section introduces a number of changes connected with common grazings and their uses.
109. [Section 26\(1\)](#) makes changes to section 50 of the 1993 Act. It inserts six new subsections which modify matters relating to consent by the owner and use of woodlands.
110. New section 50(2A) restricts the right of the owner of common grazing land to refuse consent for crofter forestry purposes by specifying the grounds on which consent may be refused. The grounds on which consent may be refused are intended to cover the situations in which there would be a loss or harm to the interests of the owner or a crofter if the planned crofter forestry scheme proceeded. It also specifies that a refusal of consent must be in writing giving reasons for refusal. New section 50(2B) further provides that a failure to give or refuse consent within 6 weeks is to be treated as refusal of consent. In the event that consent is refused or granted with conditions the crofters have the right to challenge that refusal of consent in the Land Court. New section 50(2C) specifies what the Land Court may do if it determines that the refusal of consent was unjustified or the conditions imposed are unreasonable.
111. New section 50(3A) requires the Commission to consult on receipt of an application for approval of a crofter forestry proposal and specifies who they must consult. New section 50(3B) clarifies the kinds of activity which might be included in using land as woodlands.
112. New section 50(3C) makes clear that responsibility for the cost of fencing land enclosed for crofter forestry and for subsequent maintenance, repair and renewal of that fence rests with the grazings committee or where there is no grazings committee with the crofters sharing in the grazing.
113. [Section 26\(2\)](#) inserts new sections 50A and 50B after section 50 in the 1993 Act. New section 50A provides scope for joint forestry ventures between the owner of the common grazing and crofters. It provides for the crofters and owner to make agreements which are binding on their successors and which can be amended at a later date only by agreement. It provides in section 50A(2) for the possibility of such agreements including existing trees. It also provides (new section 50A(3)) for a copy of such an agreement to be held by the Commission and in terms of section 50A(4) for such agreement to be amended by written agreement also lodged with the Commission. It also makes provision in new sections 50A(5) to (7) for the parties to resolve, in the Land Court, any disputes that arise as to value of the trees or the size of the entitlement to a share of the timber produced.

*These notes relate to the Crofting Reform etc. Act 2007  
(asp 7) which received Royal Assent on 1 March 2007*

114. New section 50B provides that common grazings may be used by crofters for purposes other than those such as grazing, forestry, peat-cutting, use of seaweed and use of heather and grass for roofing which are currently permitted. This change in use would require agreement of those crofters with shares in a common grazing and approval of the Commission (the Commission decision would be subject to a right of appeal to the Land Court by a shareholder or the owner of the common grazing in terms of section 52A of the 1993 Act as inserted by section 33 of the Act).
115. New section 50B also creates a process for making and considering a proposal to put a common grazing to another use. New section 50B(1) identifies who may propose an alternative use for a part of the common grazing. New section 50B(2) provides that the proposed new use cannot be one which is detrimental to the current use of other parts of the common grazing or to the owner's interests.
116. New sections 50B(4) to (6) set out requirements for convening a meeting of the grazings committee to consider a proposal, consultation with the owner before the meeting, making the owner's views known to the meeting, voting rights, conducting the vote, declaring the result of the vote and communicating the details of the decision of the meeting and the detailed results of the vote to the owner after the meeting.
117. New sections 50B(7) to (11) specify how the Commission should consider the matter and reach a decision after allowing 28 days for receipt of objections. If that decision is to approve a proposal, new section 50B(11) provides how the Commission may deal with a proposal and if they approve the implementation of the proposal, how they may later review their decision.
118. New sections 50B(12) and (13) require the Commission to impose a condition requiring provision of a deer-proof barrier around the land affected by a proposal where the owner asks for it to be provided, the Commission consider that the implementation of the proposal would make the land more attractive to deer and there are deer management and/or environmental enhancement/protection reasons for doing so.
119. New sections 50B(14) and (15) provide how the Commission will communicate their decision.