

Objections etc received following the public advertising of regulatory applications

LAW

The majority of regulatory applications have to be publicly advertised by the applicant. The exceptions are part croft and whole croft decrofting, new crofts and new common grazings which require to be advertised by the Crofting Commission. The advert is required to advise people with an interest in the application of their right to 'object' to the Crofting Commission within a set timescale (generally 28 days). The term 'objection' does not however apply to all regulatory functions as can be seen from the table below:

Section of the Crofters (Scotland) Act 1993	Function	Term Used In The Act
3A(1) & (2)	New Crofts	Comments
4A	Exchange of crofts or parts of croft	Objection
8	Assignment of Croft	Objection
9	Division of tenanted Croft	Objection
19D	Division of Owner-Occupied Croft	Objection
23	Vacant Croft Letting	Objection
24 & 24A	Decrofting by Landlords of vacant crofts, tenants in advance of purchase and owner-occupier crofters	No specific term used in the Act, the Commission has adopted the practice of using the term Submission
27	Subletting of Crofts	Objection
29A	Letting of Owner-occupied crofts (Full or Short Lease)	Objection
50B	Use of common grazings for other purposes	Objection
51A	New Common Grazings	Comments
52(3) & 52(4) & 52(8)	Apportionment	No specific term used in the Act, the Commission has adopted the practice of using the term Submission

Procedure

1. On receipt of an objection¹ the Commission will check that:
 - (a) It has been submitted from someone who is in the category of person listed in the Act as being entitled to object in relation to the regulatory application in question;

and
 - (b) It has been submitted within the statutory deadline to do so.
2. If an objection has been submitted but the requirements of either 1(a) or 1(b) (above) have not been satisfied, the Commission will consider whether there is statutory provision to be able to consider whether the person who has submitted the objection is a person who the Commission can consider has a relevant interest in the application and/or whether there is a statutory provision for considering whether the Commission can accept the objection on the basis that there is a good reason for it being late. If the Commission consider either that there is no statutory basis for accepting the objection, or that it is not prepared to accept the objection then it will be returned and a copy will not be retained by the Commission. If it does consider that the objection can and should be accepted go to 4 below.
3. If an objection has been received, 1(a) and 1(b) (above) have been satisfied, but the objector has marked the objection as “confidential”, the Commission will give the objector the opportunity to have the confidentiality requirement removed on the basis that it is a public process. If they do not agree, the objection will be returned to the objector and a copy will not be kept on our records. If they do agree, go to 4 below.
4. If 1(a) and 1(b) have been satisfied, the valid objection will be served on the applicant to provide them with the opportunity to respond. The Commission will not edit or redact the objection, except where it contains information which is exempt from disclosure under the Freedom of Information (Scotland) Act and the Data Protection Act.
5. Any response of the applicant will, in turn, be served on the objector by the Commission.
6. Prior to making a final decision on the case, a case paper will be prepared by the Commission which will include copies of any valid objections received, the applicant's responses to them and this will be issued to all interested parties.
7. It is open to an objector to withdraw their objection, either as a result of the response provided by the applicant to their objection or as a result of any other information contained in the case paper.
8. Once the Commission has made their decision, any objector will be provided with a copy of the Commission's decision and grounds, and will be advised of the relevant appeal provisions.

¹ For ease, we have used the word ‘objection’ throughout the procedural references, although this may not be the actual terms used in relation to that regulatory function, see previous table of terms used in the Act.