



**CROFTING COMMISSION  
COIMISEAN NA CROITEARACHD**

***COMMISSION MEETING***

***27 AUGUST 2025***

**CROFTING COMMISSION MEETING  
ST KILDA, GREAT GLEN HOUSE  
27 AUGUST 2025 AT 0900 hrs**

**AGENDA**

- |  |                |                       |
|--|----------------|-----------------------|
| <b>1 APOLOGIES</b>   | <i>Oral</i>    | <i>Standing Item</i>  |
| <b>2 DECLARATIONS OF INTEREST</b>  | <i>Oral</i>    | <i>Standing Item</i>  |
| <b>3 DRAFT MINUTES FROM 25 JUNE 2025*</b>                                    | <i>Minutes</i> | <i>For approval</i>   |
| <b>4 REVIEW OF ACTION POINTS FROM PREVIOUS MEETING<br/>(of 25 June 2025)</b> | <i>Paper</i>   | <i>For info</i>       |
| <b>5 MATTERS ARISING FROM PREVIOUS MINUTES</b>                               | <i>Oral</i>    | <i>Standing Item</i>  |
| <b>6 AUDIT &amp; FINANCE COMMITTEE REPORT</b>                                |                |                       |
| (a) <i>Update from Chair of Committee</i>                                    | <i>Paper</i>   | <i>Standing Item</i>  |
| (b) <i>Draft Minutes from 23 July 2025*</i>                                  | <i>Minutes</i> | <i>For info</i>       |
| (c) <i>Annual Report on AFC Activity</i>                                     | <i>Paper</i>   | <i>For info</i>       |
| <b>7 REVIEW OF PERFORMANCE REPORT – Q1 – APRIL-JUNE</b>                      | <i>Paper</i>   | <i>For info</i>       |
| <b>8 REVIEW OF STRATEGIC RISK REGISTER – Q1 – APRIL-JUNE</b>                 | <i>Paper</i>   | <i>For info</i>       |
| <b>9 ANNUAL REVIEW OF GAELIC LANGUAGE PLAN</b>                               | <i>Paper</i>   | <i>For approval</i>   |
| <b>10 PROPOSED BOARD MEETING DATES FOR 2026</b>                              | <i>Paper</i>   | <i>For approval</i>   |
| <b>11 POLICY PLAN REVIEW SCHEDULE</b>  | <i>Paper</i>   | <i>For discussion</i> |
| <b>12 APPORTIONMENT</b>  |                |                       |
| (a) <i>Apportionment Policy – Reviews, Duties &amp; Regulations</i>          | <i>Paper</i>   | <i>For approval</i>   |
| (b) <i>Apportionment Policy</i>  | <i>Paper</i>   | <i>For approval</i>   |
| <b>13 DATE OF NEXT MEETING</b>   |                |                       |
| <i>29 October 2025 – St Kilda</i>  |                |                       |
| <i>30 October 2025 – St Kilda – Strategy Day</i>                             |                |                       |
| <b>14 ANY URGENT BUSINESS</b>  |                |                       |
| <b>15 EXCLUSION OF THE PRESS AND PUBLIC</b>                                  |                |                       |

***\*Not in public copy***

## **APOLOGIES – ORAL**

## **DECLARATIONS OF INTEREST – ORAL**

# CROFTING COMMISSION MEETING

**27 August 2025**

Report by the Chief Executive

## Review of Action Points from 25 June 2025

ITEM	ACTION	RESPONSIBLE OFFICER	DEADLINE	DATE COMPLETED	COMMENTS
1	The Chair will circulate notes of leadership messages to Board members, to be used at external events.	Chair	ASAP		
2	Provide Commissioner MacKenzie with a summary of consultation responses on the draft Gaelic Language Plan	DoCS	Straightaway	25/06/2025	
3	CEO asked to consider implications of Section 23(2) breaches and email Commissioners	CEO	ASAP		
4	Raise idea of cross compliance action relating to non-return of Annual Notice with sponsor division	Chair	ASAP		
5	Bring paper to Board explaining further work planned by Policy team on Policy Plan	DoOPS	August Board		
6	Redraft paper on Apportionment Policy to articulate Aims and Objectives of the policy	DoOPS	August Board		
7	Further review of arrangements for recording Board case decisions in compliance with Standing Orders and checking arrangements in place for other NDPB's which are required to detail the Grounds on which the decision relies.	CEO	August Board		

**MATTERS ARISING FROM PREVIOUS MINUTES – ORAL**

# CROFTING COMMISSION MEETING

**27 August 2025**

Report by the Chair of Audit & Finance Committee

## **SUMMARY**

**The purpose of this paper is to provide the Board with an update of the Audit & Finance Committee meeting of 23 July 2025.**

## **BACKGROUND**

The Board has established an Audit & Finance Committee (AFC) as a Committee of the Crofting Commission Board to support Board Members in their responsibilities for issues of risk, control and governance and associated assurance through a process of constructive challenge.

## **CURRENT POSITION**

The Committee Chair will provide Board Members with a verbal update of the AFC meeting of 23 July. Full details are in the following draft minute of the meeting.

Key points for Board Members to note –

1. We reviewed financial performance for Q1 and identified no significant issues
2. While the forecast outturn is currently close to break even, we noted that the minor underspend position may require adjustment once the pay uprate for the year has been applied by the Scottish Government
3. We reviewed a near complete draft of the Annual Report & Accounts for 2024/25 (which again reflects a break-even position) and are content with the draft
4. We look forward to reviewing Audit Scotland's audit opinion and any associated recommendations for the 2024/25 statutory audit at a committee meeting scheduled for 15 October
5. We reviewed the Commission's Assurance Framework and noted that, in many cases, there is a movement from 'some' to 'strong' assurance within various key strategic areas
6. We reviewed operational and strategic risk registers, noting there were no new risks for the quarter and risk movement was static or falling
7. We received assurance from the Executive Team regards the mitigating practices that are in place that minimise the risk of a material data breach
8. We reviewed follow up reports on outstanding audit actions and were encouraged by the good progress now being made
9. We reviewed the Commission's Code of Corporate Governance noting that a refreshed Framework Agreement with the Scottish Government is now in place
10. We noted a positive report on complaints handling with a continuation in the downward trend in number of complaints received.

## **RECOMMENDATION**

**The Committee recommends that the Board should –**

- **Consider the paper on Committee activity that covers 2024/25 that is included with these papers to ensure content with coverage.**

Date            28 July 2025

Author           Mairi Renwick Mackenzie, Chair, Audit & Finance Committee

# CROFTING COMMISSION MEETING

## 27 August 2025

Report by the Chair of Audit & Finance Committee

### Annual Report on Committee Activity for 2024/25 to The Board

#### BACKGROUND

As part of the approved Committee workplan the Chair of the Audit & Finance Committee has drafted an annual report on the Committee's activity for the year for approval, prior to submitting to the Board for review.

#### OVERVIEW

The committee met four times in 2024/25 and followed a carefully planned programme of work throughout the year. The committee paid particular attention to medium term financial forecasting, risk appetite, Best Value and succession planning during the year. This reflects the resource challenges facing all public sector organisations and changes in board chair and membership anticipated for the first half of 2025/26.

The new CEO appointed January 2024 has settled into the role exceptionally well and any risks associated with that transition have now been downgraded. A focus on continuous improvement in corporate governance has continued with further adjustments to procedures and practices. Proposals for legislative reform have now crystallized and were published in June 2025. The committee will consider any implications as they pass through parliament.

I would like to thank all committee members for their wisdom and diligence during the year and pay tribute to the quality of support provided to the committee by executive staff. I am particularly grateful to Mairi MacKenzie who took over from me as AFC Chair with effect from end March 2025 and I wish her well in the role.

Attendance at AFC Meetings (All meetings were quorate):

Attendance at Audit and Finance Committee Meetings during 2024/25		
Andrew Thin	AFC Chair & Commissioner	4/4*
Rod Mackenzie	AFC Member & Commissioner	3/3*
Duncan Macaulay	AFC Member & Commissioner	4/4*
Duncan Gray	AFC Member & Commissioner	1/1*
James Munro	Co-opted AFC Member	3/4*
Gary Campbell	Chief Executive Officer	4/4*
Jane Thomas	Director of Corporate Services	1.5/4*
Neil Macdonald	Head of Finance	4/4*

\* = Number of attendances/Number of meetings possible to attend

The Remit of the AFC is contained within its [Terms of Reference](#) that are published on the Commission website.

The 2024/25 Committee's self-assessment review as part of the Commission's focus upon good governance practices is summarised at the [following link](#).

**The work covered by the AFC during 2024/25 is listed below.**

<p><b>April 2024</b></p> <ul style="list-style-type: none"> <li>• Review of Information and Cyber Security Risk Management Framework</li> <li>• Review Committee Workplan for forthcoming year</li> <li>• Internal Audit Report: Croft Information System Review</li> <li>• Internal Audit Report: Annual Assurance Statement on Previous Year</li> <li>• Review Internal Audit Workplan for 2024/25</li> <li>• Review Anti-Fraud/Conflict of Interest Policy</li> <li>• Review Commission Whistleblowing Policy</li> <li>• Review Equalities &amp; Diversity Plan</li> <li>• Review Financial Systems Shared Service SLA Performance</li> <li>• Consider Draft Outline Governance Statement for 2023/24</li> <li>• Consider Staff Survey Action Plan</li> <li>• Risk Assurance Annual Report to the Committee</li> <li>• Review Committee Self-Assessment for 2023/24</li> </ul>
<p><b>July 2024</b></p> <ul style="list-style-type: none"> <li>• Review Final Accounts for 2023/24 and External Auditor's Final Report on the 2023/24 Audit</li> <li>• Private Meeting with External Audit</li> <li>• Private Meeting with Internal Audit</li> <li>• Review Commission Code of Corporate Governance</li> <li>• Review Commission Assurance Framework</li> </ul>
<p><b>November 2024</b></p> <ul style="list-style-type: none"> <li>• Initial Review of 2025/26 Budget</li> <li>• Consider Staff Survey Action Plan</li> <li>• Reviewed Board Scheme of Financial Delegation</li> <li>• Reviewed Standing Financial Instructions</li> <li>• Reviewed Committee Terms of Reference</li> </ul>
<p><b>February 2025</b></p> <ul style="list-style-type: none"> <li>• External Audit update and review of 2024/25 annual audit plan</li> <li>• Consider Commission Draft Business Plan 2025/26 Prior to Submission to Board</li> <li>• Consider Commission Medium Term Financial Strategy</li> <li>• Review of Workforce Plan Update</li> <li>• Internal Audit: Financial Planning Review</li> <li>• Internal Audit: Use of Management Information</li> <li>• Review Travel &amp; Subsistence Policy</li> <li>• Annual Best Value Review Self -Assessment</li> <li>• Review of Commission Risk Management Policy</li> <li>• Consider Annual Improvement Report</li> <li>• Board Self-Assessment Evaluation for 2024/25</li> <li>• Reviewed Key Accounting Policies for 2024/25 Accounts</li> <li>• Review Draft 2025/26 Budget and Recommendation to Board</li> </ul>

**Standing agenda items reviewed at each meeting**

- Review of Operational Risk Register
- Review Strategic Risk Register
- Progress Review on Audit Recommendations
- Health, Safety & Welfare Update
- Review of Complaints Handling Report
- Review of Financial Performance to date

**RECOMMENDATION**

**The Committee is asked to consider and approve the report prior to presentation to the Board.**

Date        25 June 2025

Author:    Table of Activity completed by Crofting Commission Head of Finance and Overview approved by Chair Andrew Thin.

# CROFTING COMMISSION MEETING

## 27 August 2025

Report by the Chief Executive

### Performance Report Q1 2025-26

#### SUMMARY

The quarterly Performance Report is one of the Commission's key reporting tools, with Outcomes linked to the Corporate and Business Plans.

<https://www.crofting.scotland.gov.uk/userfiles/file/appendices/250827/Q1-April-June-Performance-Report-2025-2026.pdf>

#### BACKGROUND

This is the first quarter report of performance using the revised format approved by the Board for the 2025/26 Business Plan. The Performance Report is split into seven sections, representing organisational functions, as follows:

Outcome One	Commission-wide milestones and KPIs
Outcome Two	Regulatory and Registration function
Outcome Three	Policy function
Outcome Four	Grazings function
Outcome Five	Residency & Land Use function
Outcome Six	Information Services function
Outcome Seven	Corporate & Customer Services function.

#### CURRENT POSITION

Being the first quarter of the year, there is an expectation that things will change, and some work will not have begun, being scheduled for later in the year. Bearing this in mind, of the 31 Milestones identified in the report 24 are flagged with a Green RAG status, 6 are marked as Amber and one is Red.

Of the 31 Performance Measures, 25 indicate a Green RAG status, 5 are set at Amber and one is currently marked Red.

Members of the Executive Team will be present at the meeting and happy to take questions from Board members on the details set out in the report.

Impact:	Comments
Financial	Tasks detailed in the report are costed within the 25/26 budget
Legal/Political	N/A
HR/staff resources	Staff resources from all teams are expended delivering the targets outlined in the report.

Date: 30 July 2025

Author: Jane Thomas, Director of Corporate Services

# CROFTING COMMISSION MEETING

27 August 2025

Report by the Chief Executive

## Strategic Risk Register Q1 2025-26

### SUMMARY

A review of the Strategic Risk Register is a Standing Item for Board consideration, following its consideration by the Audit & Finance Committee. The risk register can be seen here:

<https://www.crofting.scotland.gov.uk/userfiles/file/appendices/250827/8-Annex-A-SRR.pdf>

### BACKGROUND

The Strategic Risk Register is reviewed by the AFC Committee at each of its quarterly meetings and then subsequently by the Board.

Internal Audit have recommended that a cover paper should be prepared by the Executive Team to highlight key points. This paper provides that analysis in the form of four tables.

### POINTS TO NOTE

HIGHEST OVERALL RISKS (score 100+)			
<i>Ref no</i>	<i>Topic</i>	<i>Risk score</i>	<i>Comments</i>
			There are no risks currently with an overall risk score above 75

NEW RISKS			
<i>Ref no</i>	<i>Topic</i>	<i>Risk score</i>	<i>Comments</i>
S13	CIS Replacement	75	The Commission has identified that its internal case handling system needs to be replaced, due to product support ceasing, creating a security risk. The timeframe and costs (both financial and in staff resources) have yet to be finalised and approved.

RISKS THAT ARE INCREASING (since last update)			
<i>Ref no</i>	<i>Topic</i>	<i>Risk score</i>	<i>Comments</i>
			No risks have increased in Q1

**RISKS WHICH COULD POTENTIALLY HAVE THE MOST SERIOUS CONSEQUENCES  
(Current impact 25 or higher)**

<b>Ref no</b>	<b>Topic</b>	<b>Current impact score</b>	<b>Comments</b>
S6	RALUT	25	It is important to maintain a strong Residency and Land Use team to continue addressing and resolving breaches of crofting duties, contacting those who do not respond to the annual notice, absentee landlords of vacant crofts and failed successions. This is viewed as high priority work for 2025-26. The risk level recorded is Static.
S8	Budget	25	The overall current risk score fell in Quarter 3 of 2024/25 and has not increased in Q1.

**RISKS WHICH ARE MOST LIKELY TO TRANSPIRE (Current likelihood 4 or 5)**

<b>Ref no</b>	<b>Topic</b>	<b>Current likelihood score</b>	<b>Comments</b>
S2	Challenges to Decisions	4	Increased by Solicitor in Q4 2023/24. Static in all quarters in 2024/25. Static in Q1.
S5	Credibility of crofting	4	Need to progress work of Policy, Projects & Research team alongside the more established RALUT and grazings teams to ensure we are encouraging new entrants and active crofting, plus need for comms activity to highlight the continuing benefits of crofting. Work on increasing rate of Annual Notice returns prioritised.
S11	Take-up of online applications	5	While the system is working well and popular with users, reaching the potential levels of use depends on resolving key issues with Registers of Scotland, especially about fraud prevention. Changes in secondary legislation are required.

**RISKS THAT THE EXECUTIVE RECOMMENDS ARE DISCHARGED**

<b>Ref no</b>	<b>Topic</b>	<b>Comments</b>
S12	Board recruitment to appointed member vacancies	The Executive Team recommend this risk can now be discharged.

**CURRENT POSITION**

The Audit and Finance Committee reviewed the register at its meeting on 23 July 2025, making no alterations. Since the meeting, the Executive Team consider that it is prudent to add a new risk to the register, relating to CIS replacement and to recommend risk S12 can be discharged.

**RECOMMENDATION**

**The Board is invited to note the level of risk assigned in the Strategic Risk Register, controls in place and action planned and confirm it is content. It is also recommended that risk S12 should be discharged and a new risk added relating to CIS replacement.**

Date: 23 July 2025

Author: Jane Thomas Director of Corporate Services

# CROFTING COMMISSION MEETING

**27 August 2025**

Report by the Chief Executive

## **Annual Review of Gaelic Language Plan**

### **SUMMARY**

**The Crofting Commission must review its Gaelic Language Plan annually, in advance of a report being submitted to Bòrd na Gàidhlig. For the latest updated Monitoring report please see:**

<https://www.crofting.scotland.gov.uk/userfiles/file/appendices/250827/Q1-GLP-Monitoring-Report-2025-26.pdf>

### **BACKGROUND**

Under the Gaelic Language Act (Scotland) 2005, public authorities in Scotland have a duty to complete a Gaelic Language Plan (the plan), which must be submitted for approval by Bòrd na Gàidhlig. The plan is publicised and reviewed annually, along with an annual progress report, which is submitted to the Bòrd. A complete update of the plan takes place every five years.

The first Gaelic Language Plan, submitted by the Crofters Commission, was approved in 2009. The second iteration was approved for the Crofting Commission in 2015, and the third edition was approved by the Bòrd in October 2020, which is for the period 2020 to 2025.

Monitoring Reports which detail progress in meeting commitments in the Gaelic Language Plan are written by the Gaelic Officer and submitted on a quarterly basis to the Executive Team by the Director of Corporate Services.

### **CURRENT POSITION**

The Commission invested considerable time in developing a Gaelic Language Plan with a range of practical commitments, aimed at supporting the objectives of the National Plan for Scotland, by enhancing the status of Gaelic, promoting staff learning, and encouraging the use of the language in the workplace.

The organisation's commitment reflects the importance Gaelic has in the culture of some crofting communities, with Gaelic-speaking households making up a significant base in many of the most widely-crofted areas.

All staff are expected to have an awareness of the Gaelic Language Plan. The plan forms part of the Induction process for new staff and for ongoing staff development. The Plan is included in the Commissioners' Induction Pack. The Commission Gaelic Language tuition classes have been running for several years.

A new Gaelic Language Plan was drafted in March/April 2025 for the period 2025 to 2030, put out to public consultation in May and approved by the Board in June. It has been submitted to BnG for formal approval.

<b>Impact:</b>	<b>Comments</b>
Financial	<b>April 2024 to March 2025:</b> Gaelic translation £48 Gaelic Awareness Session £250 Gaelic Classes <u>£2,387</u> <b>Total</b> <b><u>£2,685</u></b>
Legal/Political	The Commission is required to have a Gaelic Language Plan, under the National Gaelic Plan for Scotland, and the Gaelic Language Act.
HR/staff resources	Resource focus for the Gaelic Language Officer of 0.5/1 Day p/wk

# **RECOMMENDATION**

**Commissioners are asked to consider a final review of this iteration of the Gaelic Language Plan and recommend the report to Bòrd na Gàidhlig.**

Date 27 July 2025

Author Jane Thomas Director of Corporate Services

**CROFTING COMMISSION MEETING**

**27 August 2025**

Report by the Chief Executive

**Proposed Board meeting dates for 2026**

**SUMMARY**

**To propose and agree Board meeting dates for 2026.**

**BACKGROUND**

This paper is submitted to the Commission laying out proposed meeting dates for Board meetings in 2026. As per previous discussions, this will introduce a blend of in-person and virtual meetings and also tie in with a day where Commissioners can formally meet all staff in June and lead on a strategy day in October. As is the case now, extraordinary Board meetings may be called on other dates if required.

**SUMMARY OF RECOMMENDATIONS**

The Commission is asked to agree the meeting dates outlined in the table below.

<b>BOARD MEETING DATES 2026</b>
Wednesday 25 February 2026 – in person
Wednesday 6 May 2026 – virtual
Wednesday 24 June 2026 – in person then overnight for Thursday 25 June 2026 – staff day
Wednesday 26 August 2026 – in person
Wednesday 28 October 2026 – in person then overnight for Thursday 29 October 2026 – Strategy Day
Wednesday 16 December 2026 – virtual

**RECOMMENDATION**

**Schedule of meetings outlined above is recommended.**

Date      05 August 2025

Author    Gary Campbell, Chief Executive

# CROFTING COMMISSION MEETING

**27 August 2025**

Report by the Director of Operations

## **Policy Plan review schedule**

### **SUMMARY**

**A draft plan to systematically go through different aspects of the policy plan is presented. A schedule of policy topics will be prepared in a series of Board papers up to February 2027. The agreed policy papers will form the basis for the next policy plan.**

### **BACKGROUND**

The Board approved the proposal at the June 2025 Board meeting to undertake a systematic review of the policy plan over the next two years. The election of the new Board will take place in March 2027 and the policy plan will need to be published in the following six months in current legislation, or within the following year if the new crofting Bill is approved.

This paper is a follow up to the previous Board discussion and outlines the proposed schedule for the topics to be reviewed. This schedule has been drawn up based on discussion with Commission staff including the Executive Team and Regulatory Support Team. The schedule is considered fluid and may be adjusted depending on if the Board wish certain topics to be brought forward, or if some span multiple Board meetings and require follow up papers.

To help visualise the new 2027 policy plan, please reference this draft contents page at Annex A.

### **PROPOSED SCHEDULE FOR POLICY PAPERS**

#### **2025-2026**

August 2025	Apportionment papers follow up
October 2025	Commission policy on residency (this will be the general policy on residency which will inform applications, notifications and enforcement processes)
December 2025	Sublet, short term let and consent to be absent
February 2026	Assignment and letting

**2026-2027**

May 2026	Decrofting and access
June 2026	Annual Notice changes in the new Bill
August 2026	Grazings committees and regulations; 50B (Use of common grazing for other purposes), new Bill environmental provisions, apportionment review (new Bill changes)
October 2026	New crofts, Division, Exchange, Enlargement and Reorganisation
December 2026	Cultivation duty and new Bill duties implications
February 2027	Registration (including rectifications) and planning

<b>Impact:</b>	<b>Comments</b>
Financial	N/A
Legal/Political	Commission policy is important for the integrity of the Commission and provides clarity for applicants and decision makers.
HR/staff resources	Policy team, Regulatory Support Team, legal and other teams as needed will contribute to the policy review work.
Consumer Duty Guidance	Expansion and clarity of the policy plan benefits consumers.

**RECOMMENDATION**

**The Board is invited to approve the schedule for the review of the policy plan.**

Date        8 July 2025

Author       Heather Mack, Head of Policy

## Policy Plan 2027 Contents

### DRAFT

Introduction

Vision

Crofting duties

- Residency

- Land use

- Neglect

- Census

Regulatory functions

- Assignment and letting

- Decrofting

- Apportionment

- Sublet and short term let

- Consent to be absent

- Division

- Grazings and use of common grazings for other purposes

- Exchange and enlargement

- Reorganisation

- New functions under the new Crofting Act

Other

- Access

- Registration

- Planning

- Vacant crofts

- Tenancy termination and compulsory letting

## CROFTING COMMISSION MEETING

**27 August 2025**

Report by the Director of Operations

### **Apportionment Policy – Reviews, Duties and Regulations**

#### **SUMMARY**

**Potential apportionment policy changes that were presented to the Board in the June 2025 paper are considered further in this paper, as per the Boards instruction. Topics considered are apportionment reviews as standard, compliance with crofting duties and Annual Notice returns being factored into applications and reviews, and grazings regulations being required for the approval of apportionments.**

#### **BACKGROUND**

At the Board meeting in June 2025, a proposal for further detailed consideration of some possible additions to the Commissions future apportionment policy was approved. These included the following:

- Inclusion of reviews for all apportionments as standard
- Consideration of whether the applicant for an apportionment is meeting their duties and completing their annual notice
- Consideration of whether apportionment holders are meeting their duties and completing their annual notice at apportionment review periods
- Apportionments applications will only be considered on regulated grazings

These options are considered below.

#### **APPORTIONMENT REVIEWS**

The Commission doesn't include a condition to review an apportionment as standard. A review is generally only added if there is a reason to do so, such as if there are objections to the apportionment which merit this inclusion. At present the only way the Commission can instigate a review on an apportionment is by including it in the conditions at the point of approval. The grazings committee and the landlord also can request a review of an apportionment<sup>1</sup>. However, this is set to change with the new crofting bill, which has a provision for the Commission to instigate a review of any apportionment.

The benefit of including a review as standard for all apportionments is that it would ensure that it remains in use as intended, and that the conditions continue to be met. This is in keeping with Commission policy that an apportionment is a privilege, not a right and that grazings land should be preserved and the rights of all shareholders upheld. At present the Commission commits considerable resource to assessing the apportionment application when its received

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<sup>1</sup> 52(12) of the Crofters (Scotland) Act 1993 as amended by the Crofting Reform Act 2007

and very little resource to following up on apportionments once they have been granted. Introducing reviews of apportionments as standard would address this and focus more resource on follow up reviews.

The resource implication for additional reviews is, however, an important consideration. The extent of resource needed would depend on the format taken for the review: whether it would be a minimal approach, such as asking the crofter to self-declare how they are using the apportionment and if they are meeting the conditions of the order, or if the Commission opted for a more intensive review which, for example, might involve a site visit and input from the grazings committee. In either case introducing apportionment reviews as standard would involve an additional resource on an ongoing basis which cannot be fully evaluated. The impact would not be realised until such time in the future that the review periods matured (e.g. five years from the order being issued), making the impact more difficult to predict. At current intake levels the Commission gets approximately 45 apportionments per annum, which would result in the equivalent number of reviews each year.

### **Apportionment Reviews – Recommendation**

Due to the unknowns in committing future resource on an ongoing basis, it is the recommendation of officials not to introduce reviews to apportionments as a standard condition on every apportionment order at this time.

However, the new proposed crofting bill contains provisions for the Commission to review apportionments on its own determination. The Commission could use these powers to conduct a one-off project, for example to review all the apportionments that were issued prior to a specific timeframe. This would allow for a more controlled resource commitment and flexibility to adapt to other casework pressures within the Commission. It is therefore recommended that the policy team be asked to review this once the new bill has been confirmed and scope out a pilot project that can be presented back to the Board at that time.

### **DUTIES AND ANNUAL NOTICE COMPLIANCE**

A key focus for the Commission is crofters meeting their crofting duties and completing the annual notice. As an apportionment is an application that benefits the crofter, and is a privilege that the Commission has considerable flexibility in granting, a duties check could be a way to help enforce compliance. It would be relatively straightforward for the Commission to ask on the application form for the applicant to confirm they are meeting their duties for any existing crofts associated with them. The Commission could also do some additional checks including whether the crofter's address is within 32 km of the croft, whether they have completed the most recent annual notice, and whether they are currently the subject of a duties case by the Commission. This would have a negligible impact on staff resources.

The proposal was that the Commission could have a policy that apportionments will not be granted to crofters that are not meeting their duties as there would be a concern that the resulting apportioned area would also not meet these duties. Failure to return an annual notice would be seen as a failure to confirm compliance and would be taken into account as part of the determination.

However, the Commission solicitor has advised that policy should not be used to pre-determine applications. A crofter is not found to be non-compliant with duties until the Commission makes a statutory decision that a particular duty is not being complied with, having given the crofter the right to make representations. Instead, he states that the use of the existing croft and residency is one of several factors to consider when determining an application. It should be noted that the proposed bill amendments include a change which will bestow more power through legislation for the Commission to take compliance into account on its determinations, which would include apportionments.

## **Duties and Annual Notice Compliance – Recommendation**

Given the potential legal issues noted by the Commission solicitor, and the changes in the proposed bill which would formally add similar powers to the Commission through legislation, it is recommended that this suggestion is not implemented and instead is revisited by the policy team once the new Act is confirmed if that is still something the Board wish to pursue.

## **REGULATED GRAZINGS**

The Commission are aware of around 150 grazings currently without grazing regulations. Where apportionment applications have been received for grazings without regulations it results in a complex application process involving senior officers and multiple teams working to try and establish shareholder positions, to allow a determination on the application. This can create a lengthy and challenging application process which may also be more likely to result in an appeal. Such appeals could also be some time in the future, if accepted by the Land Court.

The Commission could, though, restrict apportionment applications to those grazings with regulations in place. This would mean refusal of an application where no regulations are in place, which of course would be subject to appeal. However, the applicant could also be given guidance and help to put a committee in place and to help create regulations for the grazings, which would include details of all the share positions. They would then be able to resubmit the application.

This change would involve resource from the grazings team - however this resource would need to be spent anyway to process the apportionment application. The approach of creating regulations first means that these steps are done in the correct order and they also help the Commission in its objective of increasing the number of regulated grazings.

The Commission could go one step further and require a committee to be in office in order to process an apportionment application. However, the implications of this in terms of resources needed (and possibility for appeals) are more significant due to the greater number of grazings with no committee in office (around 500).

Additionally, it would be beneficial to restrict apportionment applications from a shareholder that is currently being investigated, or subject to an undertaking, regarding a breach of grazings regulations. While there are a few breach of grazings regulation cases, these should be considered and followed through before any apportionment application is accepted. The risks are that a crofter could attempt to circumnavigate a breach undertaking by obtaining an apportionment, which would in most cases be inappropriate.

## **Regulated Grazings – Recommendation**

It is recommended that refusal of apportionment applications, where no regulations exist, is introduced as soon as possible. An interim policy statement could be created to reflect but this would need to go through the appropriate processes as specified in legislation, which would likely include consultation although this has not been fully established yet. Whilst this change carries some risk of appeals, it introduces clear benefits in terms of efficient processing of apportionment cases and meeting Commission objectives around grazing regulations.

<b>Impact:</b>	<b>Comments</b>
Financial	There is a slight risk that implementation of the recommendation for the refusal of apportionment applications on non-regulated grazings would result in an appeal. If the land court was of the view this was not something the Commission could do, the Commission may have to pay expenses.
Legal/Political	Changes to policy would need to go through the correct channels as specified in the Act, possibly including consultation.
HR/staff resources	Changes to apportionment policy and process may have implications for staff resources, particularly apportionment reviews.
Consumer Duty Guidance	The impact on consumers has been taken into account, and weighted against the benefits for the Commission in carrying out its regulatory function, and realising its objective of promoting and supporting crofting in general.

## **RECOMMENDATION**

**The Board is invited to approve the proposal in respect of apportionment policy topics, including:**

- 1. Board consideration of a pilot project to reviewing apportionments after the new crofting bill has become an Act**
- 2. To present a paper, at a later date, focused on a new apportionment policy around compliance with duties once the new Act is in place**
- 3. To create a policy for apportionment applications to require grazings regulations to be introduced as soon as possible**

Date            30 July 2025

Author        Heather Mack, Head of Policy

## CROFTING COMMISSION MEETING

**27 August 2025**

Report by the Director of Operations

### **Apportionment Policy**

#### **SUMMARY**

**This paper presents an updated draft apportionment policy, incorporating feedback from the Board to a previous paper presented in June 2025. This is based on current policy and practice at the Commission. If approved this will be published as an annex to the current policy plan and will also form the basis for the apportionment section of the next policy plan in 2027.**

#### **BACKGROUND**

An initial paper on apportionment policy, which included both current practice and policy, and options to explore for future apportionment policy, was presented at the June 2025 Board meeting. This paper follows on from that paper and discussion. It presents an updated apportionment policy based on feedback from the Board discussion. The text reflects the current policy of the Commission for apportionment applications, written more comprehensively than that in the current policy plan. The current policy on apportionments is found on Page 8, sections 40 to 43 of the [current policy plan](#).

If approved, this draft will be published as an annex to the current policy plan and will also form the basis for the next policy plan.

#### **APPORTIONMENT POLICY DRAFT GUIDANCE 2025 (based on current policy and practice)**

##### Policy context

Common grazings enable the traditional land use of stock grazing via shared management practices. Demand on grazings land has now expanded beyond this traditional use and includes interest around other uses such as renewable energy, peatland restoration, woodland, biodiversity enhancing activities, economic development and housing.

Apportionments offer a route for a shareholder / shareholders to apply for an area of grazing land for their own exclusive use. The Commission is aware when apportioning land in grazings that it is inherently denying the right to use that area to all other shareholders, which can include financial income from certain types of development projects. As such the Commission's policy is that an apportionment will generally only be considered where the purpose is for a crofting purpose. Other alternative land uses for grazings land can be sought via other mechanisms, including applications made under section 50B or section 19A of the Act, or resumptions granted by the land court.

## Policy aims

### 1. Active, sustainable use

Active and sustainable use of croft land will be the key priority in the consideration of apportionment applications to the Commission. The Commission encourages active use of common grazings and recognises opportunities for individual shareholders to use apportionments. This includes for the purposes of developing their croft business, for housing and for environmental aims. Where these active uses support wider Scottish Government aims including population retention in rural areas, creation of new housing and addressing both the climate and biodiversity crises, the Commission will take this into consideration.

Active use of common grazing and apportioned land will be considered in terms of the immediate future, based on proposals laid out in the application and comments. The Commission will also take into account the sustainability and likelihood for continued active use in the longer term for apportionment applications. The provision and importance of sustainable use and good management will be reflected in apportionment conditions, such as the requirement to fence the boundary. The Commission may choose to impose a fixed term for an apportionment or schedule a review period to ensure that the apportionment is being used for the intended purpose.

The Commission will not consider the granting of an apportionment on any area of common grazings which is currently subject to a breach action, unless the apportionment will resolve that breach and the resulting apportioned area would be considered to be in a good state of compliance for a croft.

### 2. Fairness

Fairness is fundamental to the consideration of an apportionment application. The Commission views obtaining an apportionment as a privilege and not a right for grazings shareholders. It involves a reduction in rights to other shareholders, and as such the Commission will only grant an apportionment where clear benefits are demonstrated that do not adversely affect other shareholders. Shareholders, and others with a right to comment on an apportionment application, will have the opportunity to comment. Any comments and concerns will be considered fairly by the Commission as part of its determination.

In determining an apportionment application, the Commission will balance the opportunity for the applicant against the rights of both current and future shareholders, in addition to the landlord and wider crofting community. The importance of fair allocation of land for apportionments is reflected in the policy principles, for example by consideration of the land quality of the proposed apportionment against the rest of the common grazings. Consideration will also be given to any future change of use to the apportionment, including the development potential of the land in question. As part of the apportionment process, the Commission will ordinarily conduct a physical site inspection, which will examine various factors. One of these factors is the quality of the land, both in the area being applied for to be apportioned and the wider common grazings.

Where the Commission determines that the granting of an apportionment would be unjustifiable when taking into account the fairness to other shareholders, the quality of the land being applied for in comparison to the remaining common grazings, and any potential future potential for the land which would include development opportunities (referred to as hope value), the Commission will likely not grant an apportionment.

### 3. Protection of grazings and croft land

The Commission recognises the unique characteristics of common grazings for communal working, the historic purpose common grazings serve to crofts, sustainable land use, and collective rights and responsibilities. The Commission takes the stance that grazings land should be protected and preserved as common grazings.

When an application may involve subsequent removal of land from crofting tenure, for example a proposed house site, this will be acknowledged and considered as part of the application process. The Commission recognises the importance of preserving land in crofting, but also that this should be balanced against the need to remove land from crofting tenure in some situations and the wider Scottish Government goal of encouraging population retention throughout the crofting counties. As such the Commission will generally look favourably on applications that support the goal of enabling crofters to remain in crofting counties, and to continue to actively croft.

#### Policy principles

- To ensure active use of crofts and common grazings, current and recent use of the common grazings will be taken into consideration. If the apportionment increases overall use this is favourable.
- Consideration of the rights of current shareholders, future shareholders, landowners and the crofting community.
- Apportionments should be for one of the following reasons;
  - Cultivation: stock management
  - Cultivation: agricultural building (existing or proposed)
  - Site of an existing croft dwellinghouse
  - Site of a proposed croft dwellinghouse
  - Planting trees/use as woodlands for the exclusive use of the shareholder
- Where there is potential for other uses of the land which may have a considerably higher value than the agricultural value, so called 'hope value', then this will be taken into account as to whether to apportion an area of land. Development on common grazings should preferably benefit all shareholders fairly.
- The Commission will normally issue apportionments with certain conditions as standard. These include:
  - The provision of appropriate fencing and gates for the apportionment, which should be erected within a fixed time period and maintained for the duration of the apportionment. The exceptions to this are when a fencing condition for some or all of the apportionment is not appropriate or required.
  - That the apportionment will be used only for the intended use as stated in the application.
- Apportionments may be issued with a review period as specified in the conditions. The addition of a review period will depend on the individual case and is likely to be added where an apportionment application receives objections. This will help ensure the apportionment use remains as intended and to provide fairness for objectors. This will usually be at regular intervals of 5 or 10 years.
- Apportionments can be issued as termed if considered appropriate based on the intended use and circumstances of the case.
- Apportionments should be of a reasonable size that is fair to all shareholders. The area should be consistent with the applicant's souming or a reduction in their souming as appropriate (further guidance can be sought from the RPID local area office).
- Apportionments should not include all the best agricultural land or all improved areas on the common grazings, enabling fairness to all shareholders.

- Apportionments should not include shared (now or previously) facilities, fanks, bull parks or agricultural buildings. Apportionments should not include land under shared management agreements (such as AECS).
- Apportionments should not cut off the rest of the common grazing from the nearest or most convenient public road or access point.
- Apportionments should not cut off access to contiguous crofts or properties. Where the proposed apportionment is contiguous with a croft, the Commission will contact the crofter(s) concerned and invite comment.
- Applicants are required to discuss their intention to apply for an apportionment with the grazings committee in advance of making their application.
- Opportunities to modify an apportionment application post submission to the Commission will be limited to minor essential adjustments, for example to widen access.
- Objective evidence will be sought, as needed, to make a fair decision on the application. This will normally include obtaining an RPID area office report.

#### Assessment

The policy assessment process will reflect the policy principles. The applicant is expected to provide information and evidence as appropriate as to how they meet these principles. Apportionment application forms will capture this detail as appropriate in the questions.

#### What will success look like

- Active use of common grazings and apportioned croft land. This will be monitored by recording how applicants intend to increase or maintain active use on the apportioned land and recording an assessment of whether this aim has been met at any review.
- Fairness of common grazing opportunities to all shareholders. Rights of stakeholders will be given due consideration and this will be reflected by careful scrutiny of applications that are contentious, within the delegated decision-making system.
- Faster processing times for straightforward applications, due to more clarity to applicants around what applications are likely to be approved, in addition to a reduction in applications that don't meet the criteria and are refused or withdrawn as such.

<b>Impact:</b>	<b>Comments</b>
Financial	N/A
Legal/Political	Expansion and clarification of the apportionment section of the policy plan is beneficial to the Commission and provides clarity to applicants, agents and the Land Court.
HR/staff resources	N/A
Consumer Duty Guidance	Expansion and clarity of the apportionment section of the policy plan benefits consumers.

#### **RECOMMENDATION**

**The Board is invited to approve the apportionment policy text for a 2025 additional policy statement.**

Date 17 July 2025

Author Heather Mack, Head of Policy

**DATE OF NEXT MEETING**

**29 October 2025 - St Kilda**

**30 October 2025 - Strategy Day**

**ANY URGENT BUSINESS**

## **EXCLUSION OF PRESS & PUBLIC**