

GRAZING REGISTRATION PROCESS

FREQUENTLY ASKED QUESTIONS

1. What boundaries are to be agreed?

We are looking for the boundary of the common grazings. If there are multiple owners, we do not need to know the boundary that each individual owns, just the common grazings as a whole.

2. Why are some Apportionments / SLC resumptions omitted from the map/application form?

Only resumptions that are less than 20 years old will be referenced on the application form and map. If there are any that are less than 20 years that we haven't included, we will add these once the information has been received. Resumed areas older than 20 years should be excluded from the grazings (ie appear as white space). If they do not please inform us. This should be done by highlighting the revised boundaries on the map and returning it to us.

Apportionments will only appear if the area has been fenced within the two year period and the Order has been issued by the Commission following receipt of GPS information from SGPRID.

3. How is the map information prepared?

To create the initial map for consultation, the GIS team use the most up-to-date IACS data as well as any other information held in the Commission Register of Crofts.

4. How do the Commission decide which common grazings to engage with?

For the initial phase 1 engagements, a random sample of parishes were chosen. For phase 2, we are writing to all committees who we have not yet engaged with, to give them the opportunity to be part of phase 2.

5. The application form asks for neighbouring crofter information. What do I do if I don't have this information?

This part of the application form is not compulsory. No extra time should be spent trying to obtain this information however if the information is available to you, we would be grateful if this was completed. We try to capture all the information we can, with our GIS team also determining any individual addresses that lie within 25m of the grazings boundary. For crofts/other grazings/forestry commission/SNH land, we identify those that are within 10m of the Grazings boundary.

6. What happens once the common grazings is registered?

The Commission will ensure all parties, as stated in Section 17(4) of the 2010 Act are informed of the common grazings registration. An advert will also appear for two consecutive weeks in a local newspaper and the grazings clerk will be asked to put up notices on the common grazings. A nine month challenge period will start once the notification letters have been issued.

7. How do I challenge the registration of the common grazings?

There will shortly be an application form on the SLC website to challenge any registrations.

8. How long would the challenge process typically take?

It's extremely hard to say, as it all depends on what the issues are, what information is provided by the parties, how many people are involved in the dispute, whether they have lawyers involved (which can work both ways) etc. If a hearing is required, the aim would be to arrange this within 6 months of the application being lodged, but parties or their lawyers frequently ask for more time to prepare their cases, or their lawyers are not available for a hearing. It will also depend on the volume of cases currently with the SLC.

9. How much is a typical challenge likely to cost?

The fee payable to the Court for lodging an application will be £100, and they would charge a hearing fee of £120 a day, which is paid by the applicant. If the applicant employs a lawyer they should ask for an estimate of the lawyer's fees. They could be substantial.

10. If a challenge is successful, would the appellant be able to reclaim costs?

The Court generally applies the rule of "expenses follow success" but has a very broad discretion in the awarding of expenses, so it would all depend on the circumstances of a case.

11. Will the Crofting Commission undertake rectifications?

Where a mistake in the register arises as a consequence of a mistake made by the Commission when forwarding an application for registration, only in these circumstances will the Commission undertake the rectification and costs. A person aggrieved by any act or omission of the Keeper may appeal any issue or fact or law arising from that act or omission to the Land Court.

12. Why are water features included in the grazings map?

In relation to the Commission's Common Grazings Registration Project, which will map land in crofting tenure, where a water feature is wholly contained within the common grazing, it should not be excluded from the map as it has not been subject to a decrofting decision. The area therefore remains in crofting tenure whether it is soil, water or road. That means where, for example, a loch is in the middle of a common grazing and entirely surrounded by common grazings land, the water feature is to be included in the common grazing area but not separately identified by either inclusion or exclusion. Where a water feature (river, loch/pond, etc.) crosses or runs along the boundary of a common grazing, the landlord or the grazings clerk should be able to identify how much of the water feature belongs to the grazings area.