

Extension of the period of a termed apportionment

LAW

Crofters (Scotland) Act 1993, section 52(11) (with references to sections 52(4) and 52(10)(a))

*The Commission may, on the application of any crofter who holds a right in a common grazing, and after consultation with the grazings committee, apportion a part of the common grazing (including the site of the dwellinghouse of the crofter so applying if situated on the common grazing), other than a part on which the grazings committee have planted trees and which they are using as woodland under section 48(4) of this Act, for the exclusive use of the applicant. **Section 52(4).***

*The Commission may apportion a part for a period. **Section 52(10)(a).***

*The Commission may extend any such period as is mentioned in subsection 10 on the application of the township which, or as the case may be the crofter who, has exclusive use. **Section 52(11).***

POLICY

Crofting Commission Policy Plan 2022

Policy on Apportionments (Paragraph 42)

When apportioning land, the options available to the Commission include apportioning for a set period of time and/or subject to review at fixed intervals. Where the Commission decides that it is appropriate to apportion land subject to review at fixed intervals, its policy in most cases is to have a review every ten and twenty years. It will however take account of the circumstances of each application. The Commission's underlying policy in this area is that where the crofter has ceased to use the apportionment or is not utilising it as intended, or where there are concerns about the use of the apportionment, the possibility of restoring the crofters' common grazing rights over the land should be considered.

PROCEDURE

- (1) An application for an extension to the period of a termed apportionment shall be made in the appropriate form provided by the Commission.

The application form will include reference that, if the **common grazings** has been registered that the crofter will have to submit an application to register the extension of the apportionment with RoS should the application be approved.

- (2) On receipt of an application on the said form, the Commission will check that the application is valid **(a)–(c) below** and complete **(d)–(e) below**. This will include checks that:
 - (a) The apportionment has been subject to a term
 - (b) The term of the apportionment has not expired
 - (c) The applicant is the current crofter
 - (d) That the application form has been completed properly
 - (e) That the application is accompanied by the original Order and plan granting the apportionment for the term.
- (3) If the application is invalid or incomplete, it will be returned, and reason(s) provided for doing so. In terms of (e) above, there may not be a requirement to return the application unless it is unclear which apportionment is being referred to.
- (4) The Commission shall consult with the owner of the common grazings and the grazing committee or constable (if there is one in office). We will send out a questionnaire for completion and return by the grazings committee or constable. We will also provide both the owner of the common grazings and the committee with a copy of the extension application, order and plan.
- (5) Where any negative submissions¹ to the application are received by the Commission from the owner of the common grazings or the grazings committee – refer to separate procedure on objections.

¹ Details of the persons who can submit objections and information on how the Commission treat objections received, is contained in the separate Rules of Procedure on *Objections etc. received following the public advertising of regulatory applications*

- (6) At the end of the consultation period with the owner of the common grazings and the grazing committee or constable, the Commission will review the information contained in the application form, any submissions received from the grazings committee, or the owner(s) of the grazings, and any responses received from the applicant to any submissions received.
- (7) The Commission may request that a report be prepared by an Officer from the local SGRPID Office. This will include a site inspection to check whether the apportionment is still in use for the purpose granted by the Commission in the original Order and is enclosed with a stockproof fence. The applicant, grazings committee and/or owner who made submissions to the application may be contacted in the course of preparing the report.
- (8) The Commission shall consider all the information available, taking particular account of its specific policy on termed apportionments. If it is satisfied there is sufficient information available to allow it to decide on the application and:
 - (a) if the Commission is satisfied that the application should be granted, and no negative submissions have been received, it may grant the application.
 - (b) where the Commission is not satisfied that the application should be granted, or where negative submissions have been submitted to the Commission and not withdrawn, prior to deciding the application –
 - (i) the Commission shall serve a copy of all the SGRPID report on the applicant and other interested parties, to allow them sight of the evidence the Commission will consider when reaching its decision. The Commission will allow the applicant and other parties the opportunity to comment within 21 days. However, this will be limited to commenting on the content of the report.
 - (ii) copies of any further information received and accepted by the Commission following the serving of the SGRPID report, shall be served on all interested parties prior to the Commission deciding on the application.

(iii) the Commission may direct that a site inspection and meeting with the applicant, owner of the grazings and the grazings committee is held before deciding on the application and shall consider any further information obtained at the inspection and meeting.

(9) The decision on the extension of the termed period application will be taken at the appropriate level as set out in the Commission's Instrument of Delegation. It must decide the application by: –

- (i) granting it
- (ii) refusing it.

If the Commission grant the extension to the term of the apportionment it will issue an apportionment order with an accompanying plan.

(10) The Commission will give notice of its decision to the applicant and other interested parties, within 21 days of the decision being taken, specifying the reasons for its decision.

(11) The applicant or any person with an interest in the application may appeal the Commission's decision to the Scottish Land Court within 42 days after notification of the Commission's decision.

(12) Where the apportionment relates to:

- (i) An **unregistered common grazings** – no registration provisions apply,

the extension to the term of apportionment takes effect on the date of the Order.

- (ii) A **registered common grazings** – any extension to the apportionment expires at the end of 3 months beginning with the date of the issue of the Apportionment Order unless an application for registration of the extension of the apportionment is submitted by **the applicant** to the Commission for forwarding to Keeper of the Registers of Scotland before the expiry of this period,

the extension of the apportionment takes effect on the date of the registration of the extension of the apportionment.