

# **CROFTERS (SCOTLAND) ACT 1993 AND CROFTING REFORM ETC. ACT 2007: CONSULTATION ON DESIGNATION OF NEW CROFT AREAS**

## **ANALYSIS OF RESPONSES AND SCOTTISH GOVERNMENT RESPONSE**

### **INTRODUCTION**

The views of the public on proposals to designate new areas in Scotland, outwith the Crofting Counties, where crofts could be created, were sought by means of a 12 week public consultation process which opened on 19 December 2007 and closed on 12 March 2008. Although seven responses were received after the formal closing date, Scottish Ministers agreed that they would be included in the analysis.

Section 3A of the Crofters (Scotland) Act 1993 (inserted by section 6 of the Crofting Reform etc. Act 2007) gives Scottish Ministers the power to designate new areas by Order. This consultation sought views on the proposal to align areas, where crofting tenure applies, with the area covered by Highlands and Islands Enterprise. This would entail the designation of new croft areas in the isles of Arran, Bute, Greater and Little Cumbrae; the local government area of Highland not currently within the Crofting Counties; and the local government area of Moray as new croft areas.

### **GOVERNMENT RESPONSE TO THE CONSULTATION**

The Scottish Government was pleased to receive broad support from the consultation responses to its proposals for the creation of new areas where crofting tenure can apply. In line with responses to the question about Crofting Community Right to Buy, the Scottish Government does not propose to extend this to the newly designated areas at the present time.

The Minister for Environment, in the debate on Crofting in the Scottish Parliament on 15 May 2008, indicated that the Scottish Government expects to move to designate new areas for crofting aligned with the area covered by Highlands and Islands Enterprise in the coming year. The Scottish Government will also consider the future of financial support for the new areas in light of the recommendations of the Committee of Inquiry on Crofting.

### **RESPONSES TO CONSULTATION**

There was a range of views expressed in the responses, although a strong majority view was expressed in favour of designating new areas for crofting and aligning these within the area covered by Highlands and Islands Enterprise.

A total of 43 individuals and organisations responded to the consultation. The 'Responses to Individual Questions' section of this document provides more analysis of the responses. A breakdown of respondents and information on their backgrounds can be found at the 'Overview of Responses' section of this document

Details of the respondents and their responses, where authorisation was provided by the respondent, are available on the Scottish Government web pages provided for this consultation <http://www.scotland.gov.uk/Publications/2007/12/18094859/0> . They are

also being made public via the Scottish Government Library. The Library may be contacted on 0131-244-4565 to make arrangements to view the responses. Responses can be copied and posted out, but a charge may be made for that service.

## **RESPONSES TO INDIVIDUAL QUESTIONS**

### **Q1 – Do you agree that new areas should be designated for crofting?**

There were 43 responses to this question. Of these 28 (65%) agreed that new areas should be designated for crofting. 14 (33%) respondents said that new areas for crofting should not be designated, and 1 (2%) professed themselves neutral.

While the majority favoured new areas for crofting there was a range of comments provided supporting both views:

- “Proper usage of land is the priority, and the proper management of existing crofting areas is the premier function.” (Individual crofter)
- “There are a number of areas which did not get designated as crofts by the Napier Commission. Most of these small landholdings have the same character ... as crofts” (Scottish Tenant Farmers Association)
- “It has been many years since the areas proposed for designation as areas of crofting tenure have had any specific link to crofting, and in the intervening period have developed away from a traditional crofting culture.” (Scottish Estates Business Group)
- “We would in future like this to be further extended by legislation to allow the creation of new commons. (grazings and woodland) where there is land held in crofting tenure.” (Scottish Crofting Foundation)

### **Q2 – Do you agree the new areas should align with those of Highlands and Islands Enterprise? If not, why?**

There were 40 responses to this question. Of these 25 (63%) agreed that new areas should align with those of Highlands and Islands Enterprise and be designated for crofting. 13 (32%) respondents said that new areas for crofting should not align with those of Highlands and Islands Enterprise, and 2 (5%) professed themselves neutral. In addition, 10 respondents (25%) favoured extending new areas for crofting beyond the Highlands and Islands boundaries.

While the majority favoured alignment of new areas with Highlands and Islands Enterprise, a number of respondents had different views and others considered use of the Highlands and Islands Enterprise area to be an acceptable compromise:

- “Aligning the new crofting counties boundary with the boundary of Highlands and Islands Enterprise would be a sensible option for administrative purposes.” (National Farmers Union Scotland)
- “Certainly all of the HIE should be included. However, we believe that crofting as a model of tenure could equally have benefits in other parts of the country.” (Scottish Crofting Foundation)

### **Q3 – Is there another area which has a stronger claim? If so, why?**

There were 37 responses to this question. Of these 26 (70%) did not consider another area to have a stronger claim. Only 1 (3%) respondent considered another area to have a stronger claim, although a further 8 (22%) considered that other areas could be viewed as having an equal claim to be designated as new areas for crofting. 2 (5%) respondents professed themselves neutral.

While the majority saw no area as having no greater claim, there was some support for other areas to be designated as new areas for crofting. The following comments reflect those areas that were proposed by correspondents:

- “I suggest Breadalbane, Rannoch and Atholl – all in Perthshire” (individual respondent)
- “There are other parts of the Highlands and Islands that have equal claim, including highland Perthshire and Aberdeenshire.” (Birse Community Trust)

### **Q4 – Do you agree that Crofting Community Right to Buy should not be extended to the new areas?**

This question was misinterpreted by a number of respondents, who gave yes/no answers that were at variance with any additional comments provided. The responses to this question have therefore also been analysed in the context of the textual comment provided.

There were 41 responses to this question. Of these 29 (71%) agreed that Crofting Community Right to Buy should not be extended to new areas for crofting. 10 (24%) respondents considered that Crofting Community Right to Buy should be extended to new areas often with support for common grazings to be enabled, and 2 (5%) professed themselves neutral.

The following comments provide a flavour of the responses to the question of extending Crofting Community Right to Buy:

- “Happy if the Right to Buy legislation was repealed as it has been very bad for crofting and encouraged land speculation to the detriment of crofting communities.” (individual crofter)
- “Over time crofting communities will develop and they should have the option to exercise the Crofting Community Right to Buy when they have evolved into communities in their own right.” (Scottish Tenant Farmers Association)
- “If Community Right to Buy is extended to new areas it may deter landowners from considering new crofts.” (Highland Council)
- “The creation of one or two individual crofts (with the individual right to buy) ... would not of itself create a community.” (Scottish Estates Business Group)
- “It may be acceptable for Ministers to reconsider whether to extend the Crofting Community Right to Buy in newly designated areas once it is apparent that recognisable crofting communities exist in these areas.” (North Ayrshire Council)

## Q5 – Any other comments?

A number of other comments were provided by respondents. These were wide ranging and included the spectrum of support, or not, for the new areas; the feasibility of providing existing crofting grants to the new areas; and widening the sectors to which crofting tenure should be available. The following comments convey the range of responses received:

- “The ability to convert to croft status should not just be restricted to tenants of land held under the Small Landholders Acts. There are a number of agricultural units which will have originally been held under these Acts but no longer do so as they have been subsumed into Agricultural Holdings.” (Scottish Tenant Farmers Association)
- “Although the Committee [*of Inquiry on Crofting*] have not yet completed their final report, the statistics they have referred to, to date, both in their own report and in commissioned reports, suggest that the proposed legislation ought to be rejected. ... Most notably the committee found that only 12% of respondents were interested in becoming crofters and that the traditional farming practices of crofters cannot provide a viable means of earning a living without significant assistance in the form of government subsidies.” (6 Landlord representatives)
- “Enabling the creation of common grazings would also enable Crofting Community Right to Buy to operate on a level playing field. The Council does not understand why support measures such as Croft House Grants Scheme (CHGS) and Crofting Counties Agricultural Grants Scheme (CCAGS) are not to be made available in the new areas.” (Highland Council)
- “A plain reading of the 1993 Act [*Crofter (Scotland) Act 1993*], as amended, defines a crofter as the tenant of a croft. If the intention is to really create new crofts then the tenants should have all the rights of crofters. ... There are successful crofters within the crofting counties with no access to common grazings. There are no successful crofters or other qualifying occupiers within the crofting counties who do not have access to financial support under the 1993 Act.” (Individual crofter)
- “We would recommend that the Community trusts or equivalent could be used for local communities to purchase land suitable for conversion to crofting.” (National Farmers Union Scotland)
- “Greater rewards and opportunities will be achieved for those seeking to move into the sector or wishing to grow and develop within the sector by improving the new tenancy arrangements created under the 2003 Act [*Land Reform (Scotland) Act 2003*] which will also help to rebuild confidence in this vital sector. ... We need structures that give able people the chance to have a go and if they do not succeed that allows someone else to follow on after them. ... Crofting tenure could be a constraint rather than a progression.” (The Crown Estate)
- “Although the powers under the 2007 Act [*Crofting Reform etc. Act 2007*] do provide a timeous opportunity to allow croft creation in areas such as Arran and Moray, where this has long been desired, we would recommend further legislative change to follow to give these areas the same status as the crofting counties. ... The extension of the benefits of crofting tenure without the extension of crofting support seems perverse.” (Scottish Crofting Foundation)

- “The lack of scope for the creation of common grazings, and the ineligibility for crofting support measures (most particularly the Croft House Grant Scheme) and the Crofting Community Right to Buy diminish the potential benefits of crofting tenure to new areas.” (Argyll and Bute Council)

## **OVERVIEW OF RESPONSES**

### Number of Responses

A total of 43 responses to the consultation were received. 3 individual respondents requested complete confidentiality, including their response.

### Breakdown of Respondees

Crofter – 5  
Landowner – 9  
Agricultural Tenant – 0  
Other – Community Organisation – 2  
Other – Farm Manager – 1  
Other – Individual – 7  
Other – Landowner's Agent – 1  
Other – Public Body – 6  
Other – Sector Organisation – 8  
Other – Working Farmer – 1  
Small Landholder – 3

### Responses: Published and Unpublished

Unpublished – 3  
Published in full - 33  
Published (response only) - 3  
Published (response and name only) - 4

### Organisational Responses

Housing Initiative for Arran Residents Community Trust  
Scottish Environment Protection Agency  
Scottish Tenant Farmers Association  
Highland and Islands Enterprise  
Highland Council  
RSPB Scotland  
Orkney Community Planning Partnership  
Scottish Estates Business Group  
LANTRA  
NFU Scotland  
Scottish Natural Heritage  
Scottish Rural Property and Business Association  
Scottish Crofting Foundation  
Birse Community Trust  
North Ayrshire Council  
Argyll and Bute Council