

Proposals for designating new areas for crofting in Scotland

The questions set out do not deal with the proposal as a whole. Comments are set out below. The questions have been answered also but do not cover the issues.

Background

2-4. It is true that crofting plays a part in maintaining viable communities in the crofting counties where there exists historical, landuse and land tenure links. These no longer exist in other areas even within the Highlands. To extend crofting tenure elsewhere cannot re-create what exists in the crofting counties.

It is questionable whether even an endeavour to create new crofts in the crofting counties can capture the past or is desirable. These crofts will be a different type of crofts (no common grazings, assignation and right to buy) and will merely create tensions with other forms of land tenure. The purpose is not clear.

5. It is not clear why small holders should be unilaterally converted into crofts with the same rights as those already existing in the crofting counties (not new type crofts). The right to buy for existing crofts in the crofting counties will in due course undermine crofting as we know it. To impose it in other areas for a very small number of holdings (16 in Arran not more than 50 in Arran, Moray and small parts of the Highland Region) would seem both unnecessary and unacceptable at a time when the absolute crofting right to buy is being quite widely questioned.

A way forward generally would be to terminate the existing right to buy at least outwith houses and gardens rather than imposing a new and unnecessary right to buy. If government can impose the latter they could equally remove the former.

6. This paragraph accepts the unacceptability of the right to buy and recognises that only without the existing crofts rights (right to buy) will a landlord consider creating new crofts.

Indeed it is unlikely that any landlord will consider creating new crofts. Experience of retrospective legislation remains a warning.

Proposed New Areas 7-9

For reasons set out above the proposal to designate new areas is fundamentally flawed. These areas do not have a particular historical link with crofting and over the decades have developed outwith crofting in a different type of land tenure. For example to suggest Cumbrae and Morayshire are similar to crofting tenure in West Sutherland is without foundation. Contrary to the statement in para 9, there will be two types of crofts as well as other forms of land tenure in Highland Council areas. This statement appears to contradict what is said in para 10.

Para 13

This paragraph makes it clear that small landholders in designated areas may opt to become crofters with rights similar to existing crofters in the crofting counties. However there is less clarity over the rights of other new crofts which may be created within designated areas.

Para 18

No reference to valuation for sale purposes.

Para 19

It is unlikely that any landlord would wish to convert a tenanted agricultural holding to a croft. It should be made clear that a tenant cannot transfer his/her holding to become a croft (except small land holders).

Crofting Community Right to Buy

24. It has been stated that in new areas individual crofts would not have the right to buy (Crofting Act 93 Section 12). However this para suggests that any areas within the new designated areas could be subject to Part 3 of the Land Reform (Scotland) Act 2003. This extends the compulsory right to buy by communities into quite new areas and removes existing rights from landowners. It will also be a further disincentive to any landowner to create new crofts. At least government should have made these new areas not subject to Part 3 since this introduces a further disincentive and an unacceptable removal of rights. It is noted that Ministers do not propose to extend Part 3 outwith the crofting counties but it could apply to new croft areas within the crofting counties. This statement adds to uncertainties.

25. This paragraph further increases uncertainty and underlines the fact that any landowners are unlikely to create new crofts.

28. The Ministerial announcement that crofting specific grants will remain only with the crofting counties existing crofts is to be welcomed.

Jean Balfour
March 08

QUESTIONS TO BE POSED

1. Do you agree that new areas should be designated for Crofting?

No

2. Do you agree the new areas should align with those of Highland and Islands Enterprise?

No - because extension of areas whether in HIE or elsewhere has not been well thought out.

3. Is there another area which has stronger claim?

If so, why?

Geography is not the issue.

4. Do you agree that Crofting Community Right to Buy should not be extended to the new areas?

Yes - It should also be removed from existing areas in the crofting counties.

5. Any other comments?

See paper

6. What is your background? (please tick)

Crofter

Small landholder

Agricultural tenant

Landowner

Other