

Phil Burns  
Scottish Government: Rural Directorate  
Rural Communities Division: Land Tenure,  
Land Reform, Area 1D, First Floor  
Pentland House, 47 Robb's Loan  
EDINBURGH  
EH14 1TY

Dear Sir

**Crofters (Scotland) Act 1993 and Crofting Reform Etc Act 2007  
Consultation on Designation of New Areas for Crofting  
The Lady Jean Fforde**

We act on behalf of The Lady Jean Fforde, who is the proprietor of land on the Isle of Arran. Our client has asked us to write to you in response to the current consultation and the possibility of the extension of crofting tenure beyond the crofting counties and in particular the extension of crofting tenure to the Isle of Arran. Our client raises the following points in response to the questions raised in the consultation paper:-

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

No. New areas for crofting are not required for the reasons set out below.

- (a) Such an extension is not necessary to achieve the sustainable changes sought by the Land Policy Reform Group as regards some of Scotland's remoter areas. Looking at each of the factors to be taken into account by the Committee of Inquiry on Crofting ("the Committee") there is clear evidence to support the fact that new areas for Crofting are not required as follows:-

- **Sustaining and enhancing the population**

The proposed extension of the crofting area is not necessary to sustain or to enhance the population in the areas proposed. The areas of Moray, Arran, Bute and Cumbrae are not suffering from a declining population – if anything, their populations are on the increase, as is the case on Arran. There is evidence to suggest that only a very small minority of people in these areas aspire to become crofters. There is therefore very little evidence to support the view that the introduction of crofting will have a

positive impact on the population in remoter areas. Only 12% of those interviewed for the Committee's report aspired to become crofters.

- **Improving economic vitality**

The proposed extension of the crofting area is not necessary to improve economic vitality in the proposed new crofting areas. Their economies are already thriving. On Arran the average age of the population is above average but there is below average unemployment. Low-cost housing is an issue for young workers but crofting legislation is inappropriate to tackle this problem, which is attributable to a number of other factors including the planning system.

- **Safeguarding the landscape and biodiversity**

Landscape and biodiversity are the focus of a great many incentive schemes throughout agriculture, whilst new developments also need to take into account environmental impacts. It is not necessary to introduce crofting legislation to the proposed new areas in order to improve and safeguard landscape and biodiversity. There are a number of initiatives already in place to protect the landscape and biodiversity of these areas. For example, Arran is already designated an Area of Outstanding Natural Beauty, and a National Scenic Area, with many SSSIs and rare species of birds. The requirement to maintain land in Good Agricultural and Environmental Condition is already secured through the Single Farm Payment system and the requirements of Cross Compliance and there is no evidence that crofting would in any way enhance this already secure position.

Over grazing of land can have an adverse impact on certain rare species of bird and further crofting could thus be of detriment to wildlife. In the report entitled "Trends Patterns and the Environmental Consequences of Land Use Across the Crofting Counties" commissioned by the Committee, the researchers noted that soil carbon reserves may lead to reduced grazing on peatlands in the future, with further subsidies being paid to the owner / occupier. This does not support the view that further crofts would safeguard the landscape and biodiversity.

- **Sustaining cultural diversity**

Extending crofting into otherwise non-crofting areas will not "sustain" cultural diversity, as it will be a completely new form of land tenure and will if anything create a new form of cultural diversity rather than sustain one. Where there is no "culture" of crofting present, its introduction may or may not change the local traditions and interaction of the local population. Sustaining the tradition of crofting can only be done where there is already the tradition of crofting in existence, to be sustained. Otherwise, some other element of cultural diversity will be lost.

The Committee found that the contribution of crofting to cultural diversity “seems to be fragile” and that “some people said that cultural benefits are being eroded by the changing crofting practices especially the decline in use of the common grazings”. If crofting was introduced to the proposed new areas further new practices are bound to emerge. Crofters in new areas to whom the traditional crofting lifestyle will be completely alien are highly unlikely to adopt the same historic practices. It is therefore futile to introduce an archaic system with unduly complex legal rules to new areas where those potentially benefiting will not be familiar with the system. If there are perceived problems with cultural diversity, the solution is not crofting.

To become truly culturally diverse Scotland’s rural communities must be attractive to those from all ethnic, racial and social backgrounds. Affordable housing, improving the planning system, better employment opportunities and grant schemes could all encourage such growth in these areas. The introduction of crofting will not.

**(b) The new areas are not remote**

Whereas it is proposed that crofting will help communities in remote rural areas, those remote areas are already within the Crofting Counties; those proposed new areas are not remote, all being within an hour’s travel to a major conurbation.

The Committee found that crofters amount to 10% of households in remote rural areas (defined as communities of less than 3,000 people being within 30 minutes drive of a community of 10,000 people). This is not a particularly high percentage. In considering how to improve remote areas more consideration ought to be given to the remaining 90% of the population, living and working in such areas.

**(c) Modern crofting has now become a lifestyle choice.**

The essence of a croft is that it should be wholly agricultural. Albeit small, the holding should be worked satisfactorily whilst the occupier may take up another form of work or employment. Whereas, in 1886 – 1911 this scale of farming may have been able to support a family (more or less), it cannot possibly do so today and the demand for more crofting is more a lifestyle choice than the necessity of employment or farm production.

In the Committee’s commissioned report entitled “Trends, Patterns and the Environmental Consequences of Land Use Across the Crofting Counties” it is reported that between 2001-2006 there was an 18% reduction in ewe numbers. A study in 2004 of 34 croft holdings on South Uist found that the annual income from farming was less than £10,000. Between 99 and 164 % of that farm income was derived from farm subsidy. Crofting is not therefore in itself a viable way for individuals to earn a living. The Committee did acknowledge this decline in their own report and noted that these figures are continuing to decline, but did not make any

comment on the fact that this points to the fact that crofting is not financially viable. Further legislation is not necessary to support those who have made this lifestyle choice, particularly as any such legislation will not support farming and farm production in the future.

**(d) Small Minority Benefits**

Those who would potentially benefit from the extension of the crofting areas constitute only a very small minority of Scotland's population. The Committee met with 750 people and received evidence from 238 people and views on a public attitude survey from 1047 people (reported in "Towards the Future of Crofting" published by the Committee in February 2008). Even supposing each of the respondents were counted separately, 2035 people out of the population of Scotland (presuming 6 million) represents only 0.0339%. It is difficult to see how the proposed legislation can therefore be said to be an issue of national interest. It is understood that there are currently around 20 smallholders on the island of Arran, who would potentially directly benefit from the present proposals. As a percentage of the population of Arran this is a tiny minority. Legislation to benefit such a minority is disproportionate and unnecessary.

**(e) Security of tenure**

Existing occupiers under the legislation of 1886 – 1911 are entitled to security of tenure and cannot be removed from their tenancy except under the gravest of circumstances. Thus conversion to crofting tenure offers no benefit in this regard, as the right to security of tenure would remain the same.

**(f) Crofting is an impediment to earning an average income**

The Committee has found that the average income for crofting families is £21,000 per annum. Working the croft, therefore restricts the potential to earn other income to only £14,500 per annum, whilst the croft brings in about £6,500 (largely in the form of subsidies). If crofters' time was not taken up on the croft, then they would have the opportunity to engage in other, perhaps more lucrative forms of employment. This would be of advantage to both the (former) crofter and to the taxpayer as subsidies would no longer be required. There is no reason why more viable farms could not undertake all the production and environmental work so far done by crofters and provide gainful employment. The extension of crofting at least to some extent reduces the possibility of larger commercial farming enterprises being created.

**(g) Fewer young people are returning to work their family crofts in the 21<sup>st</sup> century and only a small percentage (12% ) of those interviewed) aspired to be crofters at all**

The system is now archaic. Crofting tenure was constituted as a response to the "Clearances" of the mid 1800's. Both the political position and the practicalities of farming have moved on since then. The fact that crofting is in a natural state of decline, despite such extensive regulation to protect it, points to the fact that further legislation is not required particularly in areas where there is neither a crofting tradition at present nor any substantial demand for such a tradition to be "created".

The Committee found that amongst respondents there was significant concern regarding affordable housing. They also found that respondents were concerned about crofters' absenteeism. The Committee found that in the existing crofting counties, many young people did not want to take over their parents' croft. It seems futile to require the Crofters Commission to find a suitable crofter for a particular area of land (and clearly there are difficulties in doing so in many cases) where that area of land could otherwise be sold on the open market to a young person working in the area, farming or starting a business (perhaps remotely). Restricting the holding of crofts in this way is not helping the position as regards affordable housing particularly for young people coming into more remote areas and in fact prejudices the position more than it assists.

**2. Do you agree that the new areas should align with those of Highlands & Islands Enterprise?**

No. For the reasons given in (1) above there is no reason to enlarge (or even to maintain the existing area) where crofting takes place. The area of HIE is, in any case not a natural geographic boundary but something that evolved as a result of earlier government regulation.

**3. Is there another area which has a stronger claim. If so, why?**

No. For the reasons given in (1) & (2) above the Crofting counties do not require to be extended.

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

We do agree that that Crofting Community Right to Buy should not be extended to new areas. Such a right will have a very adverse effect on the principles of sound estate management, deer control, amenity tree planting, etc to say nothing of inward investment in these areas. Further, in areas where there is no crofting tradition, there cannot be crofting communities and such communities cannot be created retrospectively. As highlighted in the Scottish Government's Consultation Paper such extension would be incompatible with other legislation.

5. **Any other comments?**

The Scottish Government has stated in its Consultation Paper that the proposals for designation of new areas for crofting may be affected by the recommendations of the Committee. Although the Committee 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. Many of these statistics are referred to in the course of this response. 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.

Legislation which sustains and enhances the population, improves economic vitality, safeguards landscape and biodiversity and sustains cultural diversity and rural development in remote areas of Scotland, or indeed anywhere in the country, is of course to be welcomed. However, for the reasons stated above, we do not agree that extending the crofting areas will achieve these aims. Further, in many respects the proposed new legislation in fact threatens these aims and may be of detriment to the areas in question. There are other areas which need to be addressed and in respect of which there is a greater need for legislative change such as unemployment, the planning system and public services. The introduction of crofting will not offer solutions to these problems and may in some cases make the problem worse. We would therefore urge the Scottish Government to recommend that the proposed new legislation is rejected

6. **What is your background?**

We are Landlords in respect of smallholdings on the island of Arran.

We would be grateful if these comments could be taken into account by the Scottish Government. We also enclose a Respondent Information Form on behalf of our client.

Yours faithfully