



# Consultation Response

## CROFTING AREAS CONSULTATION

### **Background to the SRPBA response.**

The SRPBA is a membership organisation representing the interests of landowners and land managers in Scotland. As such, its membership includes those with interests in existing Crofting Counties as well as the proposed new Crofting Areas. Accordingly, the SRPBA's interest in responding to this Consultation is on behalf of members who will be affected in the event that the Scottish Ministers take steps to create new Crofting Areas which, in terms of the Crofters (Scotland) Act 1993 as amended by the Crofting Reform etc Act 2007, they are empowered to do.

As clearly stated in Para 13 of the Consultation document new crofts in the proposed new designated areas will not be in the Crofting Counties, as defined by statute. Grant assistance will continue to be restricted to the Crofting Counties, Common Grazings cannot be created in the new areas and landowners may contract with "new" crofting tenants to exclude the right to buy and the right to assign.

In addition, there is a clear opportunity for tenants of certain small landholdings to be fully recognised as Crofters with the consequential right to buy their house site and land.

SRPBA wishes to respond on both these issues.

### **History**

It has long been the position of crofting landowners' representatives that crofting plays an important role in holding together fragile communities in remote, economically disadvantaged communities in the Crofting Counties, most notably in the Western Highlands and Islands.

Crofting exists today as a direct result of a long historical background and crofting communities are held together by their history, common culture and the proximity of crofts within that community together with a common interest in livestock, particularly sheep. Of course, today, crofters are not necessarily reliant on agriculture but it is an important economic activity, to which the availability of common grazings adds considerably to the viability of individual crofts.

Many existing crofts in the Crofting Counties have fallen into disuse or are underused. There appears to be no intention on the part of Scottish Ministers to address this issue, which is regrettable, notwithstanding the clear statement in the Consultation Document that it is their aim to "maintain viable communities".

The SRPA considers that, before introducing new Crofting Areas, it would be prudent to examine how best to maximise the use of existing croft land and, consequently, to prevent further depopulation from the areas in Scotland which are least accessible. If there is a

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perceived need for additional crofts to be worked, it would be more appropriate for existing croft land, currently underused or not used, to be made available.

### **Land Tenure vehicles**

At present, agricultural tenants in Scotland may fall within a number of different categories:

- Secure Agricultural Tenant
- Limited Duration Tenant
- Short limited Duration Tenant
- Tenant under a Limited Partnership
- Grazing Tenant
- Crofter within the Crofting Counties
- Landholder within the Small Landholders (Scotland) Act 1911 (" 1911 Act")
- Statutory Small Tenant under the 1911 Act

In terms of the Consultation Document, it is proposed to add to that list:

- A Crofter, who has converted from a 1911 Act holding, with the right to buy and the right to assign, within the new Crofting Areas who has no access to Common Grazings.
- A Crofter, without the right to buy or the right to assign, within the new Crofting Areas who has no access to Common Grazings.

In general terms, it is SRPBA's position that there is no need to create two new land tenure vehicles; indeed, by doing so, the Scottish Ministers may well create uncertainty and misunderstandings among the tenants as to what rights they have and, for example, a Crofter in the new Crofting Areas without the right to buy or the right to assign may well question in due course why he/she does not have the same rights as other Crofters in Scotland.

In Para 4 of the Consultation Document, the Ministers state that they wish to create opportunities for owners outwith the Crofting Counties to make provision for small scale starter farms for new entrants and to assist enterprising workers seeking a land-based unit from which to develop an enterprise.

SRPBA considers this argument to be flawed. There is, of course, much discussion within the Tenant Farming Forum as to the difficulties being faced by new entrants to agriculture and the SRPBA supports the efforts being made by the Scottish Government to address this issue. SRPBA does not consider that an extension of crofting is an answer to that problem. There are, as mentioned above, numerous other vehicles available to Landowners to contract with "new entrants", many of which would give Landowners more confidence than a crofting arrangement. In relation to the development of an enterprise outwith agriculture, there are many examples of rural based businesses being established through commercial leases or other arrangements between landowners and entrepreneurs and the tenant of a Limited Duration Tenancy has in any event a qualified right to diversify out of agriculture. SRPBA considers that it is far more likely that a Landowner will consider supporting an entrepreneur through a non-crofting vehicle.



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The consultation document suggest that the proposed extension would assist self-build housing. There is no need to go through the crofting procedures; all that is required is a building plot with planning consent. If the planning consent is available so will be the plot.

### **Geographical and community issues**

The proposal is to designate as new Crofting Areas in

- Arran
- Bute
- Greater and Little Cumbrae
- The local government area of Highland which lies outwith the Crofting Counties (ie, Nairn)
- The local government area of Moray.
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Para 2 of the Consultation Document states that Crofting plays a strong part in helping to maintain viable communities in some of Scotland's rural and less accessible areas, and potentially in enabling their populations to grow once again.

We have already made reference to the considerable number of unused or underused crofts and that it would be more appropriate to make efforts to reinvigorate existing crofting communities.

SRPBA makes the following points on this issue as we consider any proposed extension to be flawed :

1. As we have stated, crofting has its place but, since the original boundaries of the Crofting Counties were fixed, life has moved on. Those areas outwith the original boundaries have advanced with the rest of rural Scotland and modernised and developed independently of the crofting culture which they never had.
2. Nairn and Moray are readily accessible by land, rail and air. Inverness is a significant centre of population and other towns, such as Elgin, Forres and , Aviemore are all within a short drive of all parts of these areas, which, while being rural, are far from being inaccessible. Much of Nairn and parts of Moray are dormitory areas for Inverness, the fastest growing town in the UK.
3. Official figures obtained from North Ayrshire Council show that, rather than having a decreasing population, Arran also has an increasing population:
  - 1961-----3700
  - 1971-----3564
  - 1981-----3845
  - 1991-----4475
  - 2001-----5058

It cannot be successfully argued that Arran is remote and inaccessible, given its proximity to Glasgow, with its international airport and thriving economy. Arran's tourist industry is of significant importance.



4. None of the proposed new Crofting Areas have crofting type communities. In the event that any Crofts are created in the new Crofting Counties, they are likely to be few (if any) and far between in which case communities will not be engendered. Similarly, in the event that some Small Landholders convert to Crofting tenure, they too will be at some considerable distance from each other, in which case a community will not be created.

### **Small Landholders**

No mention is made in the Consultation Document of the numbers of Small Landholders who are likely to have the right to convert to a croft. We have been made aware of approximately 20 individuals on Arran and 2 on Bute and there are a few scattered in the other potential Crofting Areas. However, we believe that the total for all areas is less than 50. SRPBA has to question the justification for this proposal, where so few are potentially involved. There must also be a strong possibility that many will not wish to convert, given that there will be no additional grants available and the land would be tied up for crofting purposes, leading to restrictions on flexibility.

On Arran, the existing Small Landholders have holdings which are not adjacent to each other and, in several cases, in the centre of estates, which rely heavily on income from sporting leases. Not only will the conversion of these holdings to crofts with the potential right to buy potentially create "holes" in these estates, but it may also lead to serious disruption of long established sporting rights. It is also important to note that, because of the location of these holdings and the lack of any historical community connection, it is difficult to imagine a "crofting community" being created as envisaged by the Scottish Ministers.

### **Economic Viability of crofts**

At a meeting of the Crofting Cross Party Group at The Scottish Parliament on 12 December 2007, two members of the Crofters Commission gave a presentation, during which they highlighted that, confidence in crofting, is very fragile for a number of reasons. Both the north and west are haemorrhaging sheep to the point where the critical mass required to sustain livestock keeping is in danger of being lost.

They concluded that "for the future, the key aims have to be keeping people resident in the crofting counties and making use of land and resources" and "the discussion at the assessors conference had been the need to focus on better use and management of existing crofts, before new croft creation became a priority" (quotations from draft minutes of the meeting). This reinforces the point made by SRPBA that it would be more appropriate for the Ministers to concentrate on reinvigorating existing crofts and crofting communities rather than agree on new Crofting Areas.

There were a number of initiatives by Government and indeed some private landowners to create new crofts in the late 19<sup>th</sup> and early 20<sup>th</sup> Century (for example The Congested Districts Board set up in 1894) but in many cases these activities were not particularly successful. Although land was made available, the capital required to build a house, equip and stock the holding was beyond the means of many aspiring crofter. Today agricultural or forestry activity on crofts is almost entirely dependent on public grant and subsidies.

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There is a concern that the opportunity to become a crofter in the new Crofting Areas might attract the “wrong” people to be crofters and that new crofts might be sought after by speculators as a method for building a rural house with the croft as an “add-on”. Presumably it is not the intention of the Consultation Document to encourage that.

**Conclusion**

The SRPBA can see no logical justification for extending crofting legislation into the new areas proposed. The populations of Moray, Nairn and Arran at least are thriving and increasing, and will gain no benefit from being given crofting status. The tiny number of small landholders in these areas do not justify the legislation to allow them to convert; which will be of limited value to them, given their existing protections and detrimental to the land holdings of which they are part.

The proposal generally represents an unwarranted extension of red tape.

**Date of Issue: 12 March 2008****For Further Information please contact:-**

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