

Proposals for Crofting Reform Published

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On 1 October 2008 the Scottish Government published its formal Response to the Final Report of Committee of Inquiry on Crofting. When the Final Report was published on 12 May 2008 the Scottish Government indicated its broad support for the aims and vision it set out. The published Response considers in more detail those aspects of the Final Report which it accepts and those it does not, along with an indication of how it intends to proceed.

One of the main proposals of the Report had been the abolition of the Crofters Commission so that its functions were split amongst a Federation of Crofting Boards, with 7-10 Local Crofting Boards (LCB), and a Crofting and Community Development body within Highland and Islands Enterprise (HIE). The Scottish Government however has decided to retain and re-shape the Crofters Commission so that it will consist of a main Board and upto six Area Committees. The Area Committees will be made up of a majority of crofters and will exercise the regulatory decision making function of the Commission within their area. The Convenor of each Committee will be elected from amongst its crofting members. The Committee Convenors will also make up the majority of members of the main Board. Crofting development functions will be transferred to HIE as part of its main remit rather than as a separate body within HIE.

One of the most significant recommendations within the Report was that all croft housing was to be tied to residency of the croft by a statutory deemed real burden. This burden would not be extinguished by decrofting the house site or acquiring the landlord's interest. It was also suggested that the residence burden should be backdated to 12 May 2008. Crofters (owners and tenants) who did not fulfil the residency burden would be required to assign or let their croft. LCB's were to be given power to determine policies as to the ratio of size and number of occupiers, and to determine preferences for selection of non-family assignees or transferees. All sub-lets and tenancies would require to be approved by LCB's. LCB's would also have power to limit the number of crofts or amount of land to be occupied by any person. The LCB would be able to remove the burden only if it was in the wider community interest. It was also suggested that LCB's ought to be given power to suspend the crofters right to buy their croft. The Scottish Government's response recognises the problems arising from absenteeism, neglect and the demand for second homes, but proposes a less radical approach. The proposed alternative is that where any house that is built on land that is decrofted or resumed by the landlord should be subject to an occupancy condition which would be enforced by the local authority. The Government is to consult with local authorities about the usefulness of this suggestion and how it might be enforced. Consideration will be given to allowing Area Committees to split croft land that is not being worked from croft houses that are being used so as to increase the availability of

croft land for new entrants and young people. Decrofted house sites may be tied to an area of bare croft land, allowing the site to be used as security for a loan but retaining the link to crofting.

The Report had proposed that the Keeper of the Registers of Scotland should keep the Register of Crofts. Furthermore there should be no challenge permitted to boundaries which have been accepted for twenty years or more. The Response accepts the proposal that the Keeper should be responsible for maintaining the Register of Crofts, but because of concerns that existing croft boundaries may not be sufficiently accurate, it suggests that a challenge to the boundaries will be permitted at first registration. The Report had also recommended that any non-croft holding of a similar nature to a croft and within a crofting area should be made subject to crofting regulation at the request of either the owner or the tenant. This recommendation has been rejected.

The Final Report also proposed changes to the Single Farm Payment scheme and other forms of support. Perhaps not surprisingly there is considerable support for that approach, but much of the detail will require to await the outcome of EU negotiations on the Common Agricultural Policy Health Check and the current consultation on the Less Favoured Area Support Scheme (which ends on 19 December 2008).

The Scottish Government will carry out a full public consultation on draft legislation in the spring of 2009. The draft legislation will apply any proposed occupancy condition retrospectively to houses built on land taken out of crofting tenure after 12 May 2008. In addition it is proposed that there will be a subsequent consolidation of crofting law. Information about the Final Report and the Scottish Government's Response can be found at:

<http://www.scotland.gov.uk/Topics/Rural/Crofting/17096/7492>.