



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

Consultation on crofting reform

Response by the Scottish Land Commission

August 2024

The Scottish Land Commission welcomes the public consultation on proposed reforms to the Crofting Act. Crofting, as a governance model that is underpinned by strong rights and duties of crofters, holds significant potential in delivering land reform and contributing to the Scottish Government's objectives to diversify land ownership and ensure wider benefit from Scotland's land.

Crofting as an integral part of Scotland's land reform programme

The Commission understands that the present consultation is focused principally on short-term improvements in crofting regulation and administration, and we support the intention of these improvements. We also see significant opportunity for further reforms and development as part of the Government's wider approach to land reform. Crofting is an integral part of Scotland's land reform programme and can play a significant part in diversification of land ownership and use, availability of small-scale land opportunities and affordable housing, and maintaining or increasing populations in remote and rural areas, supporting resilient and thriving communities in which more people live and work on our land.

We note some strong parallels between crofting and wider land reform, in seeking an effective balance of rights and responsibilities, interventions in a market to secure the public interest and barriers to entry resulting in part from high land values.

The potential of crofting to lead the way in creating new small-scale opportunities

In 2019, the Scottish Land Commission carried out a thorough investigation of the impacts of concentrated decision-making power in relation to land. This evidence demonstrated an appetite for access to land for small-scale use land use, to realise individual aspirations as well as community and public ambitions around local food production, woodland creation, or housing. We recommended policy interventions that would stimulate wider availability of small-scale landholdings. We are also aware that high demand for small-scale land opportunities continues to be evidenced through more recent initiatives including the Scottish Land Matching Service.

Crofting is a proven model to create new small-scale land opportunities and we believe there is benefit in further consideration being given to applying this model beyond the existing crofting counties. We would welcome opportunities to work with the Crofting Commission and Scottish Government to consider how crofting, as an integral part of land reform, could open up new opportunities for small-scale landholdings. In this regard, we support any measures that make it easier to create new crofts in the crofting counties, but also measures to support croft creation in other parts of Scotland. This could, for example, be via specific development areas where croft creation would support opportunities for (re)population, economic development and land use outcomes. When considering croft creation across Scotland, it would be important to take lessons from past and recent experiences with creation of new crofts within the crofting counties, to identify opportunities for improving processes where appropriate.

Public land leadership

We see a strong role for public sector leadership in development of crofting and the creation of new crofting opportunities. Scottish Ministers own crofting estates covering over 95,000 hectares, representing nearly 9% of all crofts in Scotland. The great majority of crofts on these public estates are tenanted. We welcome the proactive approach now being taken to enforcement of crofting duties with a view to getting more crofts back into active use. Beyond the existing crofting estates, we would welcome proactive approaches by public body landowners to identify and realise opportunities to create new crofts, including woodland crofts, and support the development of crofting and small-scale opportunities more broadly.

Housing

We consider that crofting holds particular potential to unlock new housing opportunities. Current Scottish Land Commission work on rural housing land supply highlights the potential for more proactive land assembly by public bodies, which if actioned in tandem with crofting development could support repopulation in fragile communities. Access to affordable housing is an essential foundation for the successful realisation of small-scale land use opportunities. Crofting has unique features that have contributed to housing provision. At the same time, new collaborative models for creating new crofts and housing are emerging, putting into focus the need for policy and financial support and development of pilot projects.

Connections between crofting and the Land Reform Bill

The Land Reform (Scotland) Bill is currently at Stage 1 in Scottish Parliament. The Bill includes new obligations on landowners to produce Land Management Plans (for large landholdings of more than 3000ha). The Bill also introduces a transfer test if the land to be transferred is over 1000 ha. The transfer test gives Scottish Ministers a power to require lotting in defined circumstances.

Land Management Plans may relate to land that is under crofting tenure and, in this regard, it will be important that consideration of crofting interests is included in the requirements for Land Management Plans and their implementation (including for example links to crofting development plans). The way lotting proposals are developed and implemented may offer opportunities for crofting development. The Scottish Land Commission will be considering these aspects further in our current work to advise on the Land Reform Bill.

Proposals in the Consultation on crofting reform

The Scottish Land Commission supports measures which will help maintain or increase diversity in ownership and occupation of land. We therefore support the consideration being given to how streamlined regulation can effectively address cases of multiple crofts, for example in relation to assignation and transfer of owner-occupier status (Q 5.1 & 5.2).

The Commission supports measures which will make it easier for crofters to participate in and benefit from action on nature and climate, including sufficient flexibility to make use of finance mechanisms which we expect will continue to evolve rapidly (Q 3.8, Q 3.10 and Q 4.3). In particular, with over 500,000 hectares of Scotland's land made up of common grazings, we recognise the great importance of common grazings for securing public value from natural resource management. We would also encourage exploring measures that would make it

easier to create new inbye crofts and affordable housing developments on common grazing land.

There will be a need for guidance and capacity to support collaborative working, notably joint ventures. The Commission's ongoing work on land governance, which is identifying key principles to secure public and community value from natural resource management, and which seeks to provide practical guidance and advice, will be able to feed into this.

Finally, we support measures which will help the Crofting Commission monitor and enforce compliance with crofting duties. The Scottish Land Commission supports productive use of land and enforcement of compliance with crofting duties contributes to this, as well as potentially giving access to crofts to those that are looking to fulfil the duties.