

Written submission from NFU Scotland

NFU SCOTLAND RESPONSE - CROFTING COMMUNITY RIGHT TO BUY - AMENDMENTS WITHIN COMMUNITY EMPOWERMENT BILL

Introduction

1. NFU Scotland (NFUS) is Scotland's premier farming lobby, representing around 8,500 members across Scotland, of whom 750 are crofters. Our dedicated Crofting Highlands and Islands Committee meets on a regular basis to represent crofting interests at local, regional and national levels.
2. NFUS understands that the Scottish Government has submitted amendments to the Community Empowerment Bill at Stage 2 relating to community right-to-buy. NFUS has engaged with this piece of legislation throughout the process, submitting evidence on the initial government consultation in January 2014 and again to the Local Government and Regeneration Committee in their examination of the Bill as introduced in September 2014. A submission was also issued to the Scottish Government's Agriculture, Food and Rural Communities Directorate in November 2014 relating specifically to the proposals for amendments to Crofting Community Right to Buy. This response is primarily based upon the points raised in these original submissions.
3. Primarily, NFUS is encouraged by the Bill, and considers that encouraging partnership-working with communities has wide-ranging benefits for the rural economy.
4. However, NFUS repeats concerns that there is not a concrete definition for what constitutes 'wholly or mainly abandoned or neglected' in the context of land. Parcels of land may be out of regular 'use' for periods of time when they are involved in an agricultural enterprise.

Crofting Community Right to Buy

5. NFUS recognises that the Bill's explanatory notes outline the purpose of the proposed amendments is to make the Crofting Community Right to Buy easier for crofting communities to use, while at the same time continuing to strike a fair balance between the rights of landowners and crofting communities. We are supportive in principle of these purposes and aims, however remain conscious that each crofting community buy-out must be required to put in place a long-term plan to ensure the economic sustainability of the scheme. Further detail on areas of concern are outlined in further detail below.

Section 71 – Community Bodies

6. In particular, in terms of the removal of provision for the auditing of accounts, NFUS suggests that whilst this will remove unnecessary burdens from community bodies, a structured auditing process should also be put in place to ensure that community bodies reinvest any income received in to the crofting community.
7. Regarding the provisions for community bodies that would be eligible to apply for a community buy-out, NFUS welcomes the extension of organisations defined as

Crofting Community Bodies (CCB) however advises that advisory services from non-government bodies such as HIE and SAOS are employed.

8. NFU Scotland welcomes that the amendments recognise the current confusion in the definition of 'crofting communities'. However, again, we urge caution on who this definition is extended to. Whilst this amendment simply gives Ministers the regulation-making power to expand the definition of crofting community, we repeat concerns that use of the Crofting Register as a means of defining those included in the definition of 'crofting communities' is unwise. The Crofting Register is incomplete and it will be some time before it is sufficiently populated that it could be used in such a way. NFUS encourages Ministers to expand the uptake of the Crofting Register in the first instance.

Section 73 – Crofting land mapping and public notice of application

9. NFUS agrees that the mapping requirements should be simplified as much as possible. It is important to consider the scale at which the mapping is required and this will relate to the total size of croft land being purchased. However, at some stage it is important that all servitude rights and burdens are mapped and detailed in order for the community to know exactly what they are purchasing.
10. NFUS also agrees that greater flexibility is required in the placing of public notices in order to inform of the intention to purchase land. Clearly, it will be necessary for the community to demonstrate, as part of the application, that they have done their best to inform all members of the community, owners and adjacent landowners of the crofting community buy-out.

Section 75 – Ballot procedure

11. NFUS disagrees with the amendment's proposal to make CCBs liable for the cost of conducting a ballot, but welcomes the provision that allows the CCB to apply to Scottish Ministers to recover the costs, depending on specific circumstances.

Section 76 – Section 88

12. NFUS is satisfied with these proposals.

Section 89 - Compensation

13. NFUS agrees that there needs to be some mechanism to specify the amounts payable in respect of compensation and who is liable to pay these amounts, however we have some reservations as to whether this should be done by the Minister. We would prefer that it was done by an independent body or person.

Section 92 - Outcome of appeal to Land Court

14. NFU Scotland understands that the Land Court's own regulations require them to set out in writing any decision they make. Therefore, to have this requirement duplicated in this legislation would seem unnecessary. NFU Scotland, however, believe it is still necessary to have a set time limit by which point the Land Court have to respond by. We agree that in some very complex cases a 4 week time limit could be difficult to meet. We would therefore suggest that when necessary

the Land Court could apply to Scottish Government/the Minister to extend this time limit where the Land Court can demonstrate that they need extra time to consider the case.