



Crofting and Scottish Land Court Bill – Stage 1 Report and Debate

The Scottish Crofting Federation (SCF), overall, supports part 1 of the Crofting and Scottish Land Court Bill on crofting reform.

We would like to thank government officials for their constructive dialogue throughout the development of the current proposals and members of the parliamentary Rural Affairs and Islands Committee for their careful and comprehensive scrutiny.

We welcome the committee's stage 1 report and generally agree with its findings.

On the occasion of the upcoming stage 1 debate on the bill, and with a view to stage 2 amendments, we suggest the following:

1. Thinking about more fundamental reform has to start right away

Whilst it was previously agreed among stakeholders that, this time, changes should focus on relatively minor tweaks and fixes, the stage 1 report rightly stresses the need for more fundamental reform.

- We would welcome firm commitment by all parties towards taking steps to **get a comprehensive review of all aspects of crofting law and policy underway following the passage of this Bill and immediately after the 2026 elections**, building on previous findings of the 2008 Inquiry on Crofting.

2. Strengthening enforcement of residency and cultivation duties

As many stakeholders have highlighted, insufficient enforcement of crofting duties has, in the past, led to increased croft neglect and absenteeism, destroying the social fabric of many crofting communities. Whilst SCF welcomes recent efforts of the current Crofting Commission to ensure that duties are adhered to, legislative safeguards must be put in place to make sure that this remains a long-term responsibility.

- **The wording around environmental uses of crofts must be strengthened** to ensure active use by actual crofters. The current provision that requires environmental use to be “planned and managed” is too weak to prevent neglect and land abandonment under the guise of “rewilding”.
- **The reporting of breaches of duties must be further encouraged by allowing those eligible to report a breach to remain anonymous** and by **nominating a neutral third-party body that can report breaches to the Commission which trigger investigations**. The current definition of the “crofting community”, whose reports the commission must look into, limits this circle of people to crofters in the same crofting township. Many are unwilling to report their neighbour if their name is published, potentially risking lifelong consequences. Whilst we agree that vexatious complaints and anonymous reports should be prevented, the name of those reporting should not be disclosed publicly. We also suggest that the local Rural Payments and

Inspections Division (RPID) should be able to report breaches of duties which the commission has to investigate.

- Evidence shows that even if crofts are actively managed, for example for environmental uses, people may not actually comply with their residency duty to live on or within 32 kilometres of their croft: **We must stop people from holding crofts as second home locations – by ensuring that an evidence threshold is set to qualify as ordinarily resident for a settled purpose.**

3. Amending provisions on owner-occupier crofters and creating parity with tenant crofters

The bill seeks to correct a number of cases where people, due to a legal loophole, had bought a croft but could not acquire owner-occupier croft status which is to be welcomed. Yet, there remains a number of concerns particularly relating to owner-occupied crofts. There is wide consensus that the introduction of **crofters' individual right to buy their crofts has fuelled an escalating market for crofts and croft tenancies**. In areas of natural beauty, bare land crofts with little agricultural value are now changing hands for hundred of thousands of pounds. **This puts crofts out of reach for local families and young new entrants with genuine interest in crofting**, and many crofts, despite crofting laws, end up as second home sites. Whilst addressing this problem in its entirety is out with the scope of this bill, some major improvements could be achieved by modest amendments in the relevant sections.

- **Make owner-occupier croft status subject to the same procedure as non-family croft assignations:** If a tenancy is assigned out with the close family, the Crofting Commission must scrutinise assignation applications as to whether the applicants have a genuine long-term plan to take residence for a settled purpose and put the croft to a purposeful use. Whilst the sale of a croft may not be prevented, refusing owner-occupier status in justified cases would entail that the new owners will be unable to access grants and support payments, and the Commission can require them to assign the croft to a tenant. This would **prevent cases where people, knowingly or unknowingly, buy a croft with no real intention of crofting**, thereby freeing up considerable resource of the Commission, as breaches of crofting duties and the necessity to investigate and resolve them are less likely to occur.
- Whilst we agree the owner-occupied crofts should, generally, not be owned by non-natural persons, there are instances where an outright prohibition will have unintended consequences. **Exceptions of the rule on owner-occupied crofts should be granted to a number of entities such as community development trusts and rural housing bodies.**

4. Clarifying matters in relation to common grazings

We do think that the provisions in relation to common grazings (sections 15-18) are heading in the right direction, yet the devil is in the detail and much uncertainty remains. We welcome the assurances given by government that further consideration is given to the matter of grazing shares that have become separated from the original crofts, more needs to be done to ensure that this scenario is not perpetuated in the future.

While we support the provisions enabling environmental use of common grazings, many questions remain unresolved. Further changes beyond crofting law and policy will be required to unlock the potential of common grazings for environmental restoration.

- A large majority of stakeholders would like to see **that grazing shares remain attached to the croft in all cases**. We welcome the government's consideration given towards a process to reunite previously separated shares but think that the committee proposal to require commission consent for a separation of shares could be strengthened, in that, by default, a splitting of grazing shares should not be permitted unless justified by exceptional circumstances.
- There needs to be acknowledgement that the **provisions on environmental use of common grazings, in themselves, are not enough**. Further, in line with the committee report, we would like to see clarification in terms of the legal status of carbon: The government rightly stresses that **the status of carbon is not settled**. Against assertions to the contrary, carbon rights are not necessarily attached to the ownership of the underlying land. The situation with carbon and other ecosystem services is novel, unprecedented and resolved in varied ways across jurisdictions. We urge government to further **explore legal pathways for such rights to reside, collectively, with those involved in environmental initiatives, namely grazings committees**.
- There is a real risk that crofters will be unable to pursue environmental initiatives on common grazings when there is no real incentive for crofters, or when joint venture proposals lack a fair distribution of profits, benefits, risks and responsibilities between crofters and landowners. This, in turn, may lead to situations where landowners may seek resumptions for natural capital investment, threatening the integrity of the crofting system. **Safeguards must be put place to prevent resumptions under the guise of “net-zero” initiatives** and that environmental uses of common grazings align with wider policy objectives in terms of land reform.

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