

CONSULTATION REPORT ON THE DRAFT LAND REFORM (SCOTLAND) BILL

Introduction

This report sets out the main points raised in the responses to the consultation on the draft Land Reform (Scotland) Bill, and provides summaries of the changes made to the Bill before its introduction to Parliament last November.

Background

The draft Land Reform (Scotland) Bill and the draft Scottish Outdoor Access Code were published for consultation on 22 February 2001. Part 1 of the draft Bill provided for a right of responsible access to land and inland water for recreation and passage; Part 2 for a community right to buy; and Part 3 for a crofting community right to buy land. The consultation was originally intended to end on 18 May, but was extended to 30 June because of problems which land owning and farming organisations experienced in canvassing the views of their members as a result of the restrictions imposed following the outbreak of foot and mouth disease.

13,000 copies of the draft Bill and Code were distributed and 3,587 responses were received to the consultation. More than 80% of the responses (2,914) related solely to access. Of the others, 271 also commented on access, 364 commented on the community right to buy, and 529 responded on the crofting community right to buy.

DRAFT BILL CONSULTATION SUMMARY- PART 1

The provisions on access in the draft Bill were based on advice received from SNH. The consultation invited comments on all aspects of the draft legislation, but views were particularly requested on a number of specific issues. These were: the activities to be covered by access rights; access through farm steadings; cropped land; the desirability of creating an offence relating to irresponsible behaviour; the need for a power of temporary suspension of access rights by land managers; the mechanism for core path provision; the role of the Courts; and liability.

The responses to Part 1 of the draft Bill came mainly from individuals, most of whom had an interest in walking or other recreational activities. The second largest group of respondents was landowners. The full breakdown is:-

Community Council	66
Crofter	8
Local Authority	26
Land Agent	50
Landowner	459
Non-Govt. Org.	6
Other Individual	2222
Other Org.	94

Public Body	18
Political Party	3
Recreational Org.	73
Representative Body	32
Sporting Org.	120
Tenant Farmer	8
Total	3185

There was only a small number of comments on the detail of the Scottish Outdoor Access Code. Most respondents prefaced their remarks by stating they supported the principle of responsible access, before commenting on specific aspects of the legislation.

Land management interests

The main concerns expressed by land management interests related to what they considered to be important omissions from the Bill. They argued that more of the measures for the management of access should be set out on the face of the Bill rather than relying on the provisions of the Code. In addition, land managers were concerned that the Bill did not address the issue of occupiers' liability. They argued that the existing law should be changed so that people exercising access rights would do so at their own risk without the possibility of redress from the landowner, except in the case of malicious or reckless act or omission.

Land managers also criticised the fact that the draft legislation made no specific reference to "responsible" access. Although the Bill provided that access must be exercised in accordance with the Scottish Outdoor Access Code, their preference was for the Bill to state specifically that access rights must be exercised responsibly.

Land managers pointed to the fact that the draft Bill would provide for a right of access for recreation and passage, whereas the SNH advice had referred specifically to informal recreation. Although the difficulties in defining "informal" were recognised, landowners were concerned that by not qualifying recreation in this way the Bill would extend the right of access to a wider range of activities than had been intended, including some commercial activities.

Land management interests argued strongly that there was no need for the right of access to apply at night, and that it should be limited to the period between sunrise and sunset.

They were also concerned that the Bill should emphasise the importance of path provision, particularly over enclosed land, and that sufficient funding should be made available for this purpose. Land managers welcomed the provision in section 9 that would provide for temporary restriction of access rights by landowners as an essential means of ensuring that those exercising the rights would not compromise land management activities. Farming interests emphasised the need for the provision in the draft Bill exempting cropped land from access rights, but argued that grass particularly when grown for hay or silage is an important crop and should be included within the exemption.

Land managers were very concerned that access rights should not extend to commercial groups, particularly where such groups operated in direct competition with the landowner. In general, it was argued that it was unreasonable to allow one business to derive profit from use of the asset of another without permission.

The control of dogs was also an issue with land managers. They felt that the public should not have the right of access, particularly with a dog, where there are lambing ewes. In addition, cattle can attack dogs, creating a risk to the safety of the dog owner. They further argued that it should be a legal requirement that all dogs must be on a lead anywhere in the countryside unless the owner of the land has specifically indicated that leads are not required.

Recreation interests

Recreation interests criticised the draft Bill for diverging from the consensus that they argued had been achieved in the Access Forum and for including too many provisions that could be open to abuse by landowners seeking to restrict access to their land. They were concerned that the effect of the Bill as drafted could effectively be to restrict the access currently enjoyed by the public over many parts of Scotland.

The main criticisms raised by recreation interests related to Chapter 4 of the draft Bill, particularly section 9 that would allow landowners to restrict access rights on a temporary basis. This was considered unnecessary because the public had demonstrated its willingness to comply with reasonable requests to avoid entering land where there was a potential risk in relation to the spread of foot and mouth disease. The concern was that some landowners would abuse these powers to restrict access to their land at times when this was not essential for land management purposes.

Concerns were also expressed about section 8 that would provide powers to local authorities to suspend access rights for reasons of emergency. It was argued that some local authorities would use these powers to restrict access to the hills in winter because of adverse weather conditions, including the risk of avalanche. Winter walking and climbing is an important element of recreation in Scotland and it was argued that it should not be open to local authorities to decide when it is safe for people to go into the hills.

Sections 15 and 16 also attracted wide criticism from recreation interests. The provision in section 15 that created a new offence of refusing to leave land when requested to do so by a police officer was interpreted by some as creating a criminal offence of trespass. This was regarded as unnecessary and likely to give rise to problems. Similarly, the powers in section 16 to allow local authorities to exclude from land anyone persistently acting irresponsibly in breach of the Code were regarded as being open to possible abuse. For their part, many landowners doubted whether either of these powers would ever likely to be used.

There was also criticism of section 4(1)(i) of the draft Bill that would exempt land on which crops are growing from access rights. It was argued that not only was it too difficult to attempt to define "crop" in legislation, but this was a matter which would be better addressed in the Code.

Recreation interests were pleased to see that access rights in the draft Bill extended to groups, such as a club, because clubs are often the main way that people organise their visits to the countryside.

Other Issues

Curtilage

There were many comments on the issue of curtilage. Many felt that the term curtilage should be defined in the Bill. Farm steadings raised particular concern in this context. Whereas farming interests generally argued that a steading forms part of the curtilage of a farm and should be excluded from access rights on safety grounds, recreation interests argued that access beyond a farm often requires passage through the steading and this should not be lost.

Golf Clubs/Sports Grounds

Although some golf clubs expressed concern that the inclusion of golf courses within access rights could lead to disruption of play, others pointed out that golf courses often act as a barrier to those trying to reach, for example, the beach. Failure to extend access rights to golf courses could effectively block access by foot to many popular areas.

Some respondents suggested that the exclusion of land "developed or set out for a particular recreational purpose while it is being so used" would mean that access would be denied to areas such as grouse moors when shooting was underway.

Rangers

The general feeling amongst most respondents was that rangers should focus on mediation and education rather than be involved in policing the legislation. Some suggested that local authorities should be required, not just empowered, to employ rangers.

Core Paths

The main concerns about the core path provisions in the draft Bill were that the duties of local authorities should be more clearly set out, with adequate provision for public consultation on the core path network. Although not a matter for the legislation, a number of respondents took the opportunity to express their concerns that local authorities will be adequately resourced to establish core paths.

Judicial Determination of existence and extent of access rights

A number of respondents considered that the Scottish Land Court would be more appropriate than the sheriff to consider issues relating to access rights. Others argued for the establishment of a new tribunal specifically to deal with matters relating to access.

Amendments to Part 1 of the Bill following the consultation

Following analysis of the responses to consultation, the following changes have been made to Part 1:

- Inclusion of specific reference to "responsible" exercise of access rights (section 2).
- Reciprocal obligations on landowners to act responsibly (section 3).
- Clarification that in determining whether a member of the public or a landowner is acting responsibly, regard should be had to the Code. In other words, the Code has evidential status in determining responsible behaviour (sections 2 & 3).
- Specific provision that occupiers' liability is not affected by this legislation. The effect of this is that the fact that someone was exercising access rights when injured is to be ignored in determining the duty of care in the particular circumstances (section 5(2)).
- School grounds contiguous to a school excluded from access for reasons of child protection (section 6(b)(iii)).
- Exclusion of cropped land from access extended to include grass grown for hay or silage (section 7(7)(b)).
- Access to golf courses restricted to passage, and not for purpose of recreation (section 9(1)(e)).
- Business and commercial activities excluded from access rights (section 9(2)(a)).
- Duty placed on SNH to promote compliance with Code (section 10(7)).
- Duty placed on local authorities to "assert, protect and keep open from obstruction or encroachment any route or other means by which access rights may reasonably be exercised" (section 13).
- Duties of local authorities clarified and expanded in relation to planning for, establishing and keeping open systems of core paths (sections 17 - 21).
- Provision included relating to protection of the natural heritage (section 26).
- Powers of local authorities to suspend access rights for reasons of emergency dropped (section 8 of draft Bill).
- Provision to allow temporary suspension of access rights by landowners dropped (section 9 of draft Bill).
- Offence provision dropped (section 15 of draft Bill).
- Exclusion provision dropped (section 16 of draft Bill).

DRAFT BILL CONSULTATION SUMMARY- PART 2

Of the 3587 responses to the consultation exercise, 364 referred to Part 2, within which the largest groups were landowners (135) and individuals (84). The full breakdown is:-

Community Council	15
Crofter	3
Local Authority	13
Land Agent	33
Land Owner	135
Non-Governmental Organisation	7
Other Individual	84
Other Organisation	30
Public Body	11
Political	1
Recreational Group	1
Representative Organisation	17
Sporting Organisation	12
Tenant Farmer	2
TOTAL	364

GENERAL EXTENT OF COMMUNITY RIGHT TO BUY

A wide range of views was expressed on the right to buy. Some thought the proposals too complex, while others felt that they would be a disincentive to investment. Others said that the proposals would have little or no impact on the pattern of land ownership, or that they would prefer to see a right of pre-emption, rather than the right to buy. Several felt that too much discretion was left to Ministers. A significant number supported the community right to buy in principle, but felt the provisions in the draft Bill could be improved.

The 3,000 population threshold prompted considerable comment- more thought it was too high than too low. Others thought we should have a better way of defining rural land, but did not provide one. There were also suggestions that certain types of rural land should be exempt, such as land held by public utilities or conservation bodies.

A sizeable group thought that the process of incorporation, followed by registering an interest was either too expensive or too restrictive. Several respondents felt that other organisations such as housing associations or community councils should be able to act as community bodies. Some respondents felt the community body should have at least 30 members, although a greater number felt this limit was too high. A sizeable number felt a better, or wider, definition of community was needed, although there were rather fewer suggestions as to what this might be. Some suggested that communities should be whole polling districts, while others made the point that polling districts were too large an area, and would not be representatives of community interests in sparsely populated areas. A few felt there should be a residency qualification for members of the local community before they should have a say in any right to buy.

Several respondents thought that community bodies should not be allowed to keep information contained on the register confidential. Other suggestions were that the register should be map-based; that information on registered land should be available locally; and that the register should set out clearly where an interest is registered in ancillary rights.

Following consideration of the responses, Ministerial discretion has been redefined to make it more specific, and to remove the general power of discretion on what constitutes a community body, and the minimum number of members in a community body has been reduced from 30 to 20.

REGISTRATION OF INTERESTS

Some respondents felt that further guidance was required on the procedure where the landowner could not be traced, while others felt that the press and local community should be informed about the application for registration.

Several respondents said that support from the local community for registration should be at least 10% at this stage, many suggesting higher levels of up to 75%. Others felt that the definition of sustainable development should include conservation of the environment, and that there needed to be special consideration of property which is of historical or environmental merit. Some felt that the registration of nearby land should not be allowed, and others felt that a definition of “substantial connection” with the land was needed.

A sizeable group said that late registration was unfair; that it would create uncertainty in the property market and lead to delays. A smaller group said that late registration was necessary, while others suggested that late registration should be allowed, but only as a transitional phase until the provisions of the bill have had time to take effect.

Some thought that the re-registration process should be either automatic or much simplified unless there were significant changes to the community body’s circumstances, while others thought that re-registration should only arise after a longer period of up to 10 years.

ACTIVATION OF RIGHT TO BUY

Several respondents felt that certain additional categories of transfer should be exempt from the right to buy. Those included charitable trusts, conservation charities, transfers between family trusts and more distant blood relatives. There were also various comments about what should trigger the right to buy, and there was also some interest in the provisions regarding the transfer of shares.

Some respondents thought that the anti-avoidance provisions were too complex and unlikely to work. Others stated that there was a need for more information on the beneficial ownership of land.

PROCEDURE AFTER ACTIVATION OF RIGHT TO BUY

Some thought that a simple majority should be sufficient, and others supported a simple majority with a 50% turnover, while more said that 50% was too high a level of support. A larger number commented that the level of support should be higher than that; suggestions

ranged from 60% to 75%. Others thought that the ballot should be conducted by an independent body or the local returning officer.

Some respondents stated that it was important that the owner of the land should be able to withdraw from the sale.

Some respondents felt that the delay in sales would inconvenience both sellers and lenders, or that land owners should be compensated for extra costs. Others commented that land owners should be able to impose conditions on sales as is usual practice.

VALUATION OF LAND

Several commented that the process was likely to lead to inadequate valuations and stressed the importance of including hope or development value. Some said valuations should be based on real economic returns though more stated it should be market value, such as the RICS Red Book. Some respondents thought that the valuer should not take account of a special purchaser. While others thought there should be compensation for a loss of value in remaining land, and sellers should be able to share in any development value.

The main concern here related to options to buy land, mostly in relation to housing development. Several respondents expressed concern about the possible effect on options, and on the development of rural housing.

APPEALS AND COMPENSATION

On which court should be competent to hear appeals, some said that appeals should be heard in the Scottish Land Court or the Court of Session and others stated that appeals could be heard by a new committee set up by the land authority or LEC. Several respondents said the grounds for appeal should be made wider, and others said appeals questioning the public interest definitions and appeals against unreasonable decisions by Ministers should also be included.

The grounds for appeal have been broadened to cover any relevant issue.

On compensation, some said that this should be paid for loss of value of a property due to registration itself, a condition they described as “blight”. Others said that compensation should be paid for the loss of options to buy land, or that compensation for delays should be payable for the duration of any appeals process. Other comments were that the seller costs should be payable, and that compensation should be payable to cover sales that either fall through or suffer delay in a falling market.

COMPULSORY PURCHASE, RE-SALE AND LOTTING OF LAND

Some thought the compulsory purchase powers were not necessary, or felt that they should only be used as a last resort. Others stated that Ministers should carry out compulsory purchases, and that the Crichton Down rules should apply. Some also felt that this was a possible role for the Lands Tribunal for Scotland.

The compulsory purchase provisions in the draft Bill have been replaced by a new right to buy where land has been sold in breach of Part 2.

Many respondents said that communities should be able to dispose of land if and when they please, some adding that restrictions on disposal could be imposed as necessary by funding bodies, and that land bought at market value should have no restrictions on disposal placed upon it. Among those who opposed disposal of land, several said that the original owner should have a right of pre-emption, or that any buyer who lost out to a community body exercising the right to buy should have a right of pre-emption upon disposal. Regarding finance, some said the community body should repay any public funds upon disposal, and others said that funds raised should benefit the community, not individuals.

The restriction on the re-sale of land has been removed from the Bill.

On lotting of land, one group of respondents said they had concerns about “cherry picking” of the most desirable pieces of land within a property, and felt that communities should only be able to buy land as lotted. They also said that, following purchase, compensation should be paid for any depreciation in the value of remaining land. Another group thought that the right to buy should be allowed to apply to registered land only, and added that only being allowed to buy land as lotted would not serve communities. They also said that the community cannot be expected to buy land it did not register an interest in, and pointed out that offering very large areas of land for sale would be one way of avoiding the legislation.

The community body can now buy just the registered land which is included in the land put up for sale. The valuation will include any effects of this on the value of the other land put up for sale at the same time.

Amendments to Part 2 of the Bill following the consultation

Following analysis of the responses to consultation, the following changes have been made to Part 2:

- The minimum size of community body has been reduced from 30 to 20 people, while retaining Ministerial discretion for very small communities (section 31(1) and (2)).
- The register of community interests is to be kept by the Keeper of the Registers of Scotland, unless Ministers decide otherwise. (section 33)
- The procedure for late registration has been revised and expanded (section 36)
- The section on the effect of registration now contains details of the types of transfer to which the right to buy does not apply (section 37)
- The position of a creditor in a standard security with a right to sell land has been clarified (section 44)
- A new community right to buy has been created where the landowner sells land in breach of Part 2 (sections 46 and 54). This replaces the compulsory purchase powers in the draft Bill (section 72 of draft Bill)

- The right of the landowner to decide not to proceed with the sale is now explicitly stated (section 50(5))
- To protect landowners against “cherry-picking”, the valuation of the land to be bought by the community body when this does not comprise all the land available for sale will take account of the effect of its sale on the value of the remaining land offered for sale (section 55 (7))
- The scope for appeals has been broadened, so that they can relate to any relevant issue, and not just points of procedure (section 57)
- The compensation provisions have been revised to clarify that community bodies are not entitled to compensation from Ministers (section 59)
- The Land Registration (Scotland) Act 1979 is being amended to require the Keeper of the Registers to notify Scottish Ministers if he has rejected an application for registration on the Land Register on the ground that he believes it relates to a transfer which is prohibited by the Land Reform (Scotland) Act 2001 (section 63).
- If any part of the registered land is included in the land for sale, the right to buy will arise. The community body can only buy the registered land insofar as it is included in the land for sale.. It cannot, however, buy only part of the registered land which is offered for sale (section 64)
- The criteria for registration no longer contain a general power of Ministerial discretion (section 46(3) of draft Bill)
- Controls on the disposal of land by a community body have been dropped (section 73 of draft Bill)

DRAFT BILL CONSULTATION SUMMARY- PART 3

529 responses were received to Part 3 of the draft Land Reform Bill, dealing with the Crofting Community Body Right to Buy. 347 of these responses commented solely on our proposals regarding the crofting community body right to buy salmon fishings. Contained within this number were around 65 responses which had been submitted using a pre-drafted letter format.

The total breakdown of all responses is as follows:-

Community Councils	6
Crofting interests	19
Fisheries Boards	26
Land Agents	28
Land Owning interests	129
Local Authorities	4
Other interested people	263
Other Organisations	18
Public Bodies	7
Recreational Groups	2
Representative Organisations	16
Sporting organisations	11
TOTAL	529

GENERAL EXTENT OF CROFTING COMMUNITY RIGHT TO BUY

A number of those who commented on the general extent of the crofting community right to buy provisions were generally supportive of the measures. However, another larger group considered that there was no need to introduce new legislation as existing crofting legislation gave crofters a right to buy their croft land and common grazings. Many within that latter group did not consider it reasonable to give a crofting community body the right to buy land which had not been offered for sale in the first place. They objected strongly to what they saw as a forced sale of land and rights and took the view that any rights to be conferred on crofters should be more in line with the proposals in part 2 of the Bill dealing with community rights to buy.

Some consultees expressed concern that not enough consideration had been given to the possible ECHR implications of this Bill, and others, including supporters of the Bill proposals, argued that there was too much scope for “ministerial discretion” contained within the draft Bill. There was also some doubt expressed by opponents of the proposals about the ability of the crofting community to maintain and pay for the upkeep of properties which might be acquired through the legislation.

There was a difference of opinion on whether water, foreshore and woodlands should be included as eligible croft land. Some respondents did say however that the Bill should include water, e.g. rivers and lochs, on the basis that a failure to do so could create a problem for future developments and cited as an example the development of small-scale hydro electricity schemes.

The proposal to include the right for a crofting community body to purchase salmon fishings was a major point of contention. Most of the consultation responses on the crofting community right to buy proposals were concerned about this issue (over 365) and the vast majority of these opposed the inclusion of salmon fishings. They argued that there would be an adverse impact on investment and employment on sporting estates and a detrimental effect on the value of these estates. A substantial number of these responses also objected to other non-croft and contiguous land being included in the right to buy. A few also suggested that there should be conditions governing purchase which would protect the jobs of people already employed on any such estate.

There was also strong support for the view that there should be no right to buy minerals or sporting interests and a call for the extension of the right to buy to cover owner-occupied crofts. Some consultees called for land which has been donated to public bodies to be exempted from the legislation, and for provision to ensure that any land purchased which has SSSI status is managed properly.

There were varying views on the time allowed for a crofting community to decide if it wanted to purchase sporting rights, salmon fishings and minerals. Some respondents suggested that it should be reduced and others thought the limit should be removed. Some also considered it vital that purchase of additional rights was clearly shown to be for the community's sustainable development. Concern was expressed by some that the inclusion of sporting rights on a fragmentary basis may also have an adverse effect on deer, wildlife and conservation management.

Comments were also made on the definition of a crofting community body with many suggesting that the definition contained in the Bill was too wide and did not take into account the role of the crofters within the community. A number of responses suggested that the definition should be "those who are registered as crofters, agricultural tenants, of croft land and other shareholders in the common grazing within the named township". Those who supported this position also argued that the majority of crofters must be in favour of the buyout before the buyout could proceed. They also thought that absentee tenants living within 10 miles of the croft should be included in the community. There was also varying comments on the requirement that a community body should have a membership of 30 with some groups suggesting that it should be lowered.

There are technical changes to the sections defining eligible croft land and additional land. These clarify the definitions, bring out the policy intentions more clearly and address misunderstandings that were apparent from some consultation responses. The changes clarify the way the right to buy applies to salmon fishing. The arguments for reduction in the period in which salmon fishings may be bought are given effect in section 66(2).

The minimum size for a community body has been reduced to 20 (section 68(1)(d)), the definition of a crofting community has been extended to include croft tenants (section 68(3)(a)), voting requirements have been changed and croft tenants have been given additional voting rights (section 72).

EXERCISE OF RIGHT TO BUY

Some consultees suggested that an application by a crofting community body should show that the acquisition of the land will not be detrimental to the area and the plans for development of the land are viable. They wanted other public bodies to be invited to comment on the proposal. Some also considered that the period for commenting on an application should be extended. Others said that the proposed legislation could allow a small determined group to stop a sale of land.

On the provisions regarding ballots, some consultees said that the requirement for a 50% turnout should be reduced, whilst others said that at least 75% of the community should support the application. Others suggested that it should be left to the community to decide if they wanted to proceed with a purchase without the need for a ballot.

There were also conflicting views on the purchase of additional land with some saying that the area suggested in the draft Bill should be reduced and others arguing for no restrictions on the quantity of land involved. Some respondents believed that it would be wrong to allow a landowner to require a crofting community body to take additional land and argued that the inclusion of such additional land could not be in the public interest. The effect of the loss of crofting land on the remainder of an estate was also thought by some to be an important issue that needed further consideration.

Some respondents said that there should be provision to ensure that land purchased is used for the purpose for which approval was granted and that sustainable development takes place. They wanted the Executive to investigate the use of the property to ensure it is used in the public interest and to impose penalties on the community body for non-compliance.

Some respondents were against the proposals to allow the lease back of sporting interests to the owner and considered that it should be left to the parties to reach their own settlement. Others believed that the crofting community should have the right to buy out the sporting tenant's interest after a leaseback and it was also suggested that the lease back period should be no longer than 5 years.

The time allowed for each of the main stages of the application process has been extended to 60 days (section 70) and some opportunities for exercising Ministerial discretion dropped. The provisions of section 78 have been revised to allow all those with an interest in the application to refer issues relating to the application to the Land Court thus allowing disputes and problems to be resolved before Ministers make a decision on an application.

VALUATION OF CROFT LAND

On the assessment of value of croft land some said that the value to be placed on the land should be the same as the price paid when crofters buy their croft land, i.e. 15 times the rent, re-valued to reflect current rental values. Others were of the opinion that the price to pay should be based on the real value of the land in terms of its economic viability and earning capacity. The majority of those who commented however supported the view that the price should be assessed at full market value. Some also thought that the value of land sold with

mineral deposits should reflect the long term value of the land which may be greater than the current sale price.

Many other points on assessing the value of the land that the crofting body planned to purchase were put forward. These included suggestions that the valuation of the land should include compensation for the effect on the remaining part of the estate following the purchase of sporting rights; and the effect of blight on future developments on the estate following the purchase of land. Some respondents believed that the value of the land could best be assessed by valuers appointed by parties to value the land in question with an overseer appointed in the event that agreement was not reached.

Some respondents thought that clarification was needed on who would assess whether the crofting community body had 'taken all reasonable steps' to secure funding from other sources. It was also thought important that the crofting community body should know at an early stage in the proceedings how much compensation will be awarded. Some said that owners who have been subjected to compulsory purchase should be properly compensated and that the compensation awarded should cover the loss of income as well as the capital asset.

Many of the respondents who commented on this part of the Bill were against grants being awarded to crofting community bodies to pay compensation to landlords. They were also against public money being used to fund purchases of croft land.

The valuation provision has been revised (section 85 (6)) to ensure that compensation for depreciation and disturbance is assessed as part of the valuation process.

APPEALS

Responses on the appeal proposals included requests that there should be a right of appeal against Land Court decisions and that the right of appeal be extended to allow for appeals on public interest grounds. Some also considered that the Land Court should be obliged to seek representations, as well as to have regard to them, and also consult neighbouring crofters or communities.

Section 88 has been extended to allow an appeal on any point of law.

DISPOSAL OF LAND

Some respondents believed that a crofting community body should not be allowed to dispose of land to enable them to make a short commercial gain and if they did sell then there should be a suitable claw-back period of at least 10 years in favour of the previous landowner. Others believed that if the crofting community body wished to transfer part of their land or interests, then these must be first offered to the previous proprietor or his successors. A third group considered that, as the land would have been purchased at a market price, restrictions on subsequent sale by the crofting community body would be unfair.

The provision which restricted re-sales has been removed from the Bill.

Amendments to Part 3 of the Bill following the consultation

Following analysis of the responses to consultation, the following changes have been made to Part 3:

- Clarification of the definitions of eligible croft land and additional land including the application to salmon fishings (sections 65, 66 & 67).
- Reduction in the period during which salmon fishings may be bought (section 66(3)).
- Reduction in the minimum size for a community body to 20 (section 68(1)(d)).
- Extension of definition of a crofting community to include all croft tenants of crofts in the croft township associated with the croft land who are resident within 16 kilometres of that township (section 68(3)(a)).
- The time allowed for each of the main stages of the application process extended to 60 days (section 70 & section 80(1)).
- Some options for use of Ministerial discretion have been dropped (sections 70 & 71).
- Removal of requirement that over 50% of the crofting community must vote in a ballot.
- Croft tenants have been given greater influence on the outcome of the ballot procedure (section 72(1)).
- Any person with an interest in an application to buy additional land given a right to make representations to the Land Court when that application is referred to the Court (section 74(2) & 76(3)).
- All those with an interest in a crofting community right to buy application may refer issues relating to that application to the Land Court (section 78(1)).
- Clarification of the consequences for the crofting community body of incorrectly identifying the owner of the croft land or sporting interests, as the case may be, for the purpose of exercising the right to buy. (section 83(3)).
- Valuation provision revised to ensure that compensation for depreciation and disturbance is assessed as part of the valuation process (section 85 (6)).
- Appeal provision extended to allow an appeal on any point of law (section 88(5)).
- Register of crofting community rights to buy to be maintained by the Crofters Commission (section 91(1)).
- Restrictions on re-sales dropped from the Bill.

SEERAD: Land Reform Branch
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