Crofting Reform etc. Bill

Bill Number: SP Bill 57  
Introduced on: 2 March 2006  
Introduced by: Ross Finnie  
Passed: 25 January 2007  
Royal Assent: 1 March 2007

2007 asp 7

Passage of the Bill

The Crofting Reform etc. Bill [SP Bill 57] was introduced in the Parliament on 2 March 2006. Stage 1 commenced on 19 April 2006 with the Environment and Rural Development Committee as the lead committee. The Stage 1 debate took place on 27 September 2006 and the Bill was passed following the Stage 3 parliamentary debate on 25 January 2007.

Purpose and objectives of the Bill

The Bill is the final piece of legislation in the Scottish Executive’s land reform programme intended to modernise and reform Scottish land law. Large parts of crofting law remain as it was when introduced at the end of the nineteenth century. The objectives of the Bill are to simplify crofting legislation and the administration of crofting, to allow new crofts to be created, to allow crofters to undertake a wider range of activities on their crofts, and to modernise crofting legislation to take account of changes such as the increasing interest in renewable energy development in crofting areas.

Provisions of the Bill

The Bill will allow new crofts to be created within the crofting counties, and in other parts of Scotland in areas designated in an order made by Ministers. Statutory small landholders in these areas will be able to turn their holdings into crofts. Crofters will be able to use their crofts for “purposeful uses” other than grazing livestock or forestry. Crofters will also be able to use common grazing land for wider purposes. The role of the Crofters Commission in deciding on regulatory applications from crofters will change. It will only decide on assignations, divisions, and sublets of crofts where there is an objection to the proposal or where certain conditions apply. Landowners will be able to resume land from crofting tenure temporarily, instead of permanently as at present. Resumed land which is not used will revert to crofting tenure. Landowners or developers will be able to apply to the Land Court for a
development scheme, e.g. for a wind farm development. The Land Court will
decide if crofters would be fairly compensated before approving a scheme.

Since the enactment of the Land Reform (Scotland) Act 2003, part 3 of which
gives crofting communities an absolute right to buy their croft land, there has
been evidence that landowners have been leasing certain rights e.g. rights to
develop renewable energy, to intermediary companies, and so exclude these
rights from the right to buy. To prevent this, the Bill will allow crofting
communities to buy any leases which exist over crofting land, as well as the
land itself.

Parliamentary consideration

Certain aspects of the Bill proved to be controversial during Parliamentary
consideration. The main concern among crofters was that the buoyant
housing market in the Highlands and Islands has led to the growth of a market
in crofts, which in some communities is pricing local crofters out of the market
and is allowing the best crofting land to be developed for housing. There was
a feeling that the Crofters Commission was not using its powers to dampen
down the market in crofts. This was felt by many to be threatening the future
of crofting as a protected system of agricultural land tenure. The Executive
brought forward proposals to regulate owner-occupied crofts, but these were
rejected by the Environment Committee in its Stage 1 report. The Stage 1
report was critical of many aspects of the Bill, suggesting that some proposals
should be dropped altogether, and ultimately the Committee was not able to
make a recommendation on the general principles of the Bill to Parliament. In
its response, the Executive agreed to remove sections of the Bill during stage
2, and also to establish a Committee of Inquiry on crofting to undertake a wide
ranging review of the regulation of crofting tenure and the future of the
Crofters Commission.

During stage 2 the Executive tabled amendments to remove the sections of
the Bill which would have changed the status of the Crofters Commission, and
those which referred to the market value of a croft. The proposals on owner
occupiers were never tabled. A small number of technical amendments were
made to the Bill during stage 3.

In December 2006 the Executive appointed Professor Mark Shucksmith to
chair the Committee of Inquiry, and the Committee is expected to conclude its
work by the end of 2007.