Rural Affairs, Climate Change and Environment Committee

4th Report, 2013 (Session 4)

Stage 1 Report on the Crofting (Amendment) (Scotland) Bill

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Rural Affairs, Climate Change and Environment Committee

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Rural Affairs, Climate Change and Environment Committee

Remit and membership

Remit:
To consider and report on agriculture, fisheries, rural development, climate change, the environment and other matters falling within the responsibility of the Cabinet Secretary for Rural Affairs & the Environment.

Membership:
Jayne Baxter
Claudia Beamish
Graeme Dey (Deputy Convener)
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Richard Lyle
Angus MacDonald

Committee Clerking Team:
Clerk to the Committee
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Nick Hawthorne

Assistant Clerk
Alison Wilson

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Ross Fairbairn
The Committee reports to the Scottish Parliament as follows—

SUMMARY

1. The Committee regrets that an unintended consequence of omissions, and/or a lack of clarity in existing crofting legislation has led to the Crofting Commission suspending decisions on applications by owner-occupier crofters to decroft all or part of their land, as the Crofting Commission considered there was no legal basis on which to make such decisions. Such applications had been made, and decided upon, since October 2011, until the problem came to light earlier this year, and the suspending of consideration of such applications has prevented some owner-occupier crofters enjoying equal rights to tenant crofters, which was the policy intention of the existing legislation.

2. The Committee agrees that the legislation needs to be corrected and therefore welcomes the Scottish Government’s swift bringing forward of amending legislation which should not only remedy this issue for those making such applications to decroft in the future, but will also retrospectively apply to all those who previously made applications, or who currently have applications on hold as a result of the issue being identified.

3. However, whilst acknowledging that amending legislation is required, and that the Bill as drafted should address the identified problem, the Committee notes the considerable body of opinion, particularly from the legal profession, expressing the view that the Bill as drafted is unnecessarily complex and, in places, requires amendment in order to avoid further difficulties in legal interpretation in the future.

4. The Committee notes the significant number of other outstanding issues relating to crofting many believe require to be addressed by the Scottish Government following the conclusion of consideration of this Bill by Parliament.

5. The Committee was struck by the evidence it received from those knowledgeable in this area of the law, which demonstrated significant
frustration and concern with the increasing complexity and layers of crofting law. Crofting law as it stands was described as “a mess” by more than one respondent to the Committee's call for views.

6. The Committee makes specific comment on the provisions in the Bill in the main body of this report below. However, the Committee welcomes the policy intention of the Bill to rectify the anomaly which has been identified that currently prevents owner-occupier crofters from applying to decroft all or part of their land. The Committee therefore recommends that the Scottish Parliament support the general principles of the Bill at Stage 1, to allow the Bill to pass to Stage 2.

7. However, in doing so, it strongly recommends that the Scottish Government carefully considers any amendments which may be required to the Bill at Stage 2 to allow for full scrutiny (seeking information, evidence and advice on any legal issues as appropriate) to ensure that the Bill is clear and competent and does not add further complexity to an already complex body of legislation, or have the potential to give rise to further unintended consequences.

8. The Committee asks the Scottish Government to identify how it intends to address the other issues within crofting law which were brought to the Committee’s attention during its scrutiny of the Bill and to inform the Committee of how it intends to proceed. The Committee recommends that the Scottish Government indicates how it intends to address the wider criticisms that have been made, particularly by the legal profession, of the current state of crofting law as a whole.

INTRODUCTION

Parliamentary scrutiny

9. The Crofting (Amendment) (Scotland) Bill¹ was introduced in the Scottish Parliament on 9 May 2013. The Bill was accompanied by Explanatory Notes,² which include a Financial Memorandum, and by a Policy Memorandum,³ as required by the Parliament’s Standing Orders.⁴

10. Under Rule 9.6 of Standing Orders, on 14 May 2013 the Parliamentary Bureau referred the Bill to the Rural Affairs, Climate Change and Environment

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¹ Crofting (Amendment) (Scotland) Bill, as introduced (SP Bill 31, Session 4 (2013)). Available at: http://www.scottish.parliament.uk/S4_Bills/Crofting%20(Amendment)%20Bill/b31s4-introd.pdf
³ Crofting (Amendment) (Scotland) Bill. Policy Memorandum (SP Bill 31-PM, Session 4 (2013)) Available at: http://www.scottish.parliament.uk/S4_Bills/Crofting%20(Amendment)%20Bill/b31s4-introd-pm.pdf
(RACCE) Committee\textsuperscript{5} as lead committee, to consider and report on the general principles.

11. The Scottish Government sought the cooperation of the Scottish Parliament in expediting the passage of the Bill through the legislative process. This meant that the Committee agreed to a shorter than usual period for its Stage 1 scrutiny.

12. Given the time constraints of an expedited process, the Finance Committee took the view that it did not have time to undertake any meaningful scrutiny of the Financial Memorandum (FM) which accompanied the Bill. The RACCE Committee therefore undertook scrutiny of the FM, and its comments can be found later in this report.

13. The Scottish Parliament Information Centre (SPICe) published a briefing\textsuperscript{6} on the Bill which proved very helpful to the Committee during its scrutiny.

**RACCE approach and call for views**

14. The Committee agreed its approach to consideration of the Bill at Stage 1 at its meeting on 8 May 2013.

15. A call for views\textsuperscript{7} on the general principles of the Bill was subsequently issued and closed on Friday 17 May 2013. The Committee received fourteen written submissions in response to its call for views.

16. **Whilst understanding why the Scottish Government sought an expedited consideration of the Bill, the Committee regrets that such a short time was available for written views to be submitted to the Committee.** It received a not insignificant number of responses in the short time available, several of which were lengthy, technical and complex in nature and it is a matter of regret that the Committee did not have more time available to follow up the points raised in some of the submissions. The Committee therefore strongly recommends that the Scottish Government carefully considers all evidence sent to the RACCE Committee ahead of the Stage 1 debate.

**Witnesses**

17. The Committee took oral evidence from the Scottish Government’s Bill Team, and then from stakeholders, on 15 May 2013. The Committee’s oral evidence-taking concluded with a session with the Minister for Environment and Climate Change, Paul Wheelhouse MSP, on 22 May 2013.

18. Extracts from the minutes of all the meetings at which the Bill was considered are attached at Annex A. Where written submissions were made in support of


\textsuperscript{7} Scottish Parliament Rural Affairs, Climate Change and Environment Committee. Call for views. Available at: http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/63173.aspx
evidence given at meetings, these are linked, together with links to the Official Report of the relevant meetings, at Annexe B. A link to all other written submissions, including supplementary written evidence, can be found at Annexe C.

19. The Committee extends its thanks to all those who gave evidence on the Bill within a very tight timeframe. The cooperation of all involved was very much appreciated.

BACKGROUND TO AND PURPOSE OF THE BILL

Legislative background

20. The Bill amends the Crofting Reform (Scotland) Act 2010\(^8\) (the “2010 Act”) and the Crofters (Scotland) Act 1993\(^9\) (the “1993 Act”) to allow owner-occupier crofters to be able to apply to the Crofting Commission to decroft all or part of their croft.

Contents/purpose of the Bill

21. The Policy Memorandum outlines the background of the Bill as follows—

“The Bill addresses a problem which has arisen in relation to provision in the Crofting Reform (Scotland) Act 2010 (the “2010 Act”) which introduced a new category of “owner-occupier crofter” into the Crofters (Scotland) Act 1993 (the “1993 Act”). It has become apparent that an unintended effect of the provision is that it does not allow owner-occupier crofters to apply to the Crofting Commission\(^10\) (“the Commission”) to decroft land unless the croft is vacant. The objective of the Bill is therefore to ensure owner-occupier crofters are in the position they were meant to be in, in respect of decrofting, following commencement of the provisions in section 19B of the 1993 Act on 1 October 2011 defining owner-occupier crofters, and that the Commission are able to give decrofting directions to owner-occupier crofters where they approve the application.

The Minister for Environment and Climate Change made a statement to the Scottish Parliament on 28 March 2013 setting out the Scottish Government’s intention to bring forward at the earliest opportunity a Bill which would remedy that problem. The Minister also set out his intention to propose a timetable for the Bill that would enable the Scottish Parliament to consider carefully the proposed changes, while ensuring that the matter was resolved quickly. While the Bill will enable owner-occupier crofters to apply to the Commission to decroft land, it will also make retrospective provision in relation to the 159 decrofting applications already determined by the Commission and the 50 applications which have been submitted but have not yet been decided since this issue arose. This will allow these applications,

\(^{8}\) The Crofting Reform (Scotland) Act 2010 (asp 14). Available at:

\(^{9}\) The Crofters (Scotland) Act 1993 (asp 44). Available at:

\(^{10}\) A Non-Departmental Public Body which replaced the Crofters Commission from 1 April 2012.
and any resulting decrofting directions, to be treated as competent and avoid the need for the applications to be resubmitted. This will benefit both the applicants and the Commission and avoid unnecessary bureaucracy.

The Scottish Government is committed to ensuring that, insofar as possible, all crofters are treated equally, while taking account of the differing status between tenant and owner-occupier crofters.\(^\text{11}\)

22. The Bill contains seven sections and a schedule as follows—

- Section 1 – Applications to decroft by owner-occupiers;
- Section 2 – Consequential modifications;
- Section 3 – Retrospective effect and application;
- Section 4 – Appeals against certain decisions etc.;
- Section 5 – Transitory provision;
- Section 6 – Commencement;
- Section 7 – Short title; and
- Schedule – Consequential modifications.

**Scottish Government consultation**

23. Due to the Scottish Government’s desire to expedite the passage of this Bill, and the fact that it is seeking to correct an identified error in previous legislation, the Scottish Government did not consult formally on a draft Bill before bringing it forward.

24. The Committee explored the consultation process which had taken place with Scottish Government officials, in an attempt to allay concerns that the Bill had been brought forward with insufficient consultation or buy-in from those it would most affect.

25. Richard Frew, a policy adviser with the Scottish Government, and the lead official on the Bill, assured the Committee that the Scottish Government began consulting with organisations such as the Crofting Commission, Scottish Crofting Federation, and the National Farmers Union Scotland as soon as the problem came to light. He explained that the expedited procedure being pursued to solve this problem quickly prevented formal consultation on a draft bill, but added that once the Bill had been published, the Scottish Government held a meeting with stakeholders to seek their views on the Bill as drafted.

26. Stakeholders that gave evidence to the Committee were of the view that the consultation by the Scottish Government since the issue was identified had been acceptable in the circumstances, but noted that any future consultations on crofting matters should be subject to more standard procedures and timescales.

27. **The Committee understands the reasons why the Scottish Government did not consult formally on a draft bill in this instance, and welcomes the Government’s attempts to seek stakeholders’ views once the problem had been identified, and once the Bill had been published.**

\(^{11}\) Crofting (Amendment) (Scotland) Bill. Policy Memorandum, paragraphs 2-4.
28. **It is clear to the Committee that should any further changes to crofting law be proposed by the Scottish Government, they should be subject to public consultation, within appropriate timescales.**

**Background on owner-occupier crofters and the Crofting Register**

29. Prior to the enactment of the 2010 Act, the legal definition of a crofter was the tenant of a croft. There was a problem with this definition, in that it did not take account of the fact that crofters had been able to buy their croft since 1976. This meant that crofters who bought their crofts did not have the same rights or conditions of occupancy as crofters who remained tenants.

30. One of the policy intentions of the 2010 Act was to equalise the rights and duties of owner-occupier and tenant crofters as much as possible. As part of this owner-occupier crofters were defined in crofting law and the Act provides a right for owner-occupier crofters to apply to the Crofting Commission for consent to divide their croft and to let it. It also creates a duty for them to be ordinarily resident on or within 20 miles of their croft, and to cultivate or put it to purposeful use and not misuse or neglect it.

31. When a crofter purchases their croft they become an owner-occupier. If they meet the conditions set out in section 19B of the 1993 Act they are also an owner-occupier crofter. These conditions are that—

- the person is the owner of a croft and;
- before becoming the owner, the person was the tenant crofter who exercised the right to buy the croft, the nominee of such a crofter or an individual who purchased the croft from the landlord who created the croft (or a successor in title to any of these persons); and
- the croft has not been let to any person as a tenant crofter since it was acquired from the landlord or constituted as a croft.

32. When a crofter purchases their croft, they are in effect buying the landlord’s interest. The land remains croft land, and subject to crofting law. Where a crofter wants to obtain finance for a development on the croft, to build a house for example, lenders have tended to prefer that the house site and garden ground are taken out of crofting. Decrofting is a process whereby a crofter, or a croft landlord (in the case of a vacant croft), can apply to the Crofting Commission for a declaration that a particular piece of land is no longer croft land.

33. The Crofting Register is a map based register kept by Registers of Scotland. It was provided for by Part 2 of the 2010 Act. The Register is now open to applications and crofters can register their crofts. The Act provides that regulatory applications to the Crofting Commission act as “trigger points” for registration – the Commission cannot consider applications unless the croft is registered, or is registered as part of the process of an application being decided. When the 2010 Act was before Parliament, the Scottish Government gave an undertaking that when it commenced the provisions of the Act on the Crofting Register, it would allow a year before commencing the provisions on the trigger points which require
registration, to allow croft land to be registered voluntarily, and in particular to allow a croft community mapping approach, which would map and register all the crofts in a township at once, to be piloted. The trigger points provisions will come into force on 30 November 2013, and will require registration where a crofter makes an application to the Crofting Commission, including applications for decrofting, after that date.

ISSUES CONSIDERED BY THE COMMITTEE

The Bill as a whole

34. Before the Committee comments on the specific sections of the Bill, and examines other issues which were drawn to its attention, it addresses three central questions—

- is a bill required, and/or was there a better way of achieving the policy aims?;
- has the Bill been appropriately drafted?; and
- will the Bill solve the problem?

Is a bill required, and/or was there a better way of achieving the policy aims?

35. There was some disagreement on whether a bill was required, both in terms of whether the current legislation did in fact provide for owner-occupier crofters to be able to apply to decroft their land, and also in terms of whether an alternative method could have been used to bring about the desired outcome, such as secondary legislation or by giving direction to the Crofting Commission.

36. Brian Inkster, a crofting lawyer and member of the Crofting Law Group, questioned whether a Bill was required as, in his view, the current law can be read as saying that owner-occupier crofts could be considered vacant, and therefore decrofting applications could be considered. However, Derek Flyn, Chair of the Scottish Crofting Federation, told the Committee that, in his view, Brian Inkster had not taken full account of the fact that owner-occupier crofters cannot have a vacant croft by definition in law.

37. Derek Flyn added he believed further legislation was needed to address the issue at hand, and that the Bill, as drafted should solve the problem.

38. In his third submission to the Committee Brian Inkster accepts that the time has now passed to debate whether a bill is necessary or not—

“[…] we shouldn't, at the moment, whilst some redrafting of the Bill is necessary and hopefully in hand, spend much time debating whether or not the Bill was necessary. There may be a place for a post mortem after the Bill becomes an Act to see if things could have been done differently by the Crofting Commission and or the Scottish Government when the ‘problem’ first
manifested itself. From that lessons may be learned for the future to hopefully avoid such a situation arising again."12

39. Sir Crispin Agnew QC, the Chairman of the Crofting Law Group, noted “It is good that we are putting this right and beyond doubt.”13

40. Richard Frew explained that the Scottish Government had considered these points before bringing the Bill forward, but did not believe that the current legislation provides for owner-occupier crofts to be considered as vacant and therefore that decrofting applications cannot currently be considered, hence the need for the issue to be addressed.

41. Accepting that a correction was needed, the Committee then explored what alternatives to primary legislation had been explored by the Scottish Government before bringing the Bill forward. Richard Frew told the Committee that a Bill was considered the most appropriate vehicle for dealing with the situation, and would provide for the fullest level of scrutiny within the timescales available, as opposed to seeking to bring the measures forward in subordinate legislation, or via an emergency bill.

42. Kenneth Htet-Khin, Senior Principal Legal Officer with the Scottish Government, confirmed that the Government had considered other ways of fixing the problem but that a bill was considered to be the most appropriate, for the reasons stated by Richard Frew. He went on to note that there are provisions in the 2010 Act which provide for order-making powers to amend crofting legislation, but that these are for specific purposes and “not necessarily”14 appropriate for this issue. Also, section 1(3) of the 1993 Act which gives Ministers powers to give directions to the Crofting Commission was another possible avenue which was not considered appropriate.

43. The Minister added that a Public Services Reform Order could have been pursued but that it would have required a 60 day period for consultation, which would have unacceptably delayed resolving the issue for those currently affected.

44. The Committee notes the comment of stakeholders on whether legislation was required at all, and whether a bill, rather than any alternative vehicle, was the most appropriate method for addressing the situation. On balance, the Committee is satisfied that legislation was required, and that given the desire to resolve the issue quickly, a bill is the most appropriate vehicle for dealing with the current problem.

*Has the Bill been appropriately drafted?*

45. The drafting of the Bill was criticised by the majority of witnesses who gave evidence to the Committee, most notably by the legal profession. Sir Crispin Agnew QC and Brian Inkster made detailed comments to the Committee on how

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12 Brian Inkster. Third written submission.
the current draft should be amended to make it fit for purpose, and these are discussed in more detail later in this report.

46. Eilidh I.M. Ross, a solicitor from Inksters Solicitors, made the following observation on the effect she felt this Bill would have on crofting law—

“Matters are now to be exacerbated by the addition of yet another layer of incomprehensible extra sections and consequential amendments to an Act which was consolidated 20 years ago, and which has been (badly) amended numerous times. If the Act which my fellow crofting solicitors and I work with on a daily basis, and on which we must advise our clients, is in such a poor state of repair, that has serious implications for our profession (not to mention for crofters and landlords).”¹⁵

47. Sir Crispin Agnew QC told the Committee that he felt the Bill could have been drafted much more simply, by adding a few words into the 1993 Act, a view also put forward by Brian Inkster in his written evidence to the Committee, who describes the Bill as “unnecessarily complex”¹⁶. Sir Crispin Agnew QC added that the Bill as drafted was “overcomplicated”¹⁷ and that the sections do not fit well together from a legal point of view.

48. Brian Inkster noted—

“[…] the Bill could be condensed dramatically in size and complexity by a more straightforward and simple approach to the drafting of it. Arguably, what has been created is a sledge hammer to crack a nut. Crofting Law is complex at the best of times. The Scottish Government should be seeking where possible to make it easier to understand and thus avoid the need for amending legislation due to the different interpretations that can be given to complexly drafted provisions.”¹⁸

49. Brian Inkster went so far as to send the Committee a completely redrafted bill, which, in his view, addresses the concerns he has regarding the Bill as drafted, adding that “I would suggest that the Scottish Parliament should seriously consider the approach taken by me as one to adopt.”¹⁹

50. Brian Inkster’s redrafted bill was supported by Scottish Land and Estates—

“Scottish Land & Estates remain concerned that the legal scrutiny of this bill has not been sufficient to ensure that it is free from unintended changes. We consider it is quite long and complicated with many apparently consequential changes. We take the view that the alternative Crofting (Amendment) (Scotland) Bill drafted by Brian Inkster should be seriously considered.”²⁰

¹⁵ Eilidh I.M. Ross. Written submission.
¹⁶ Brian Inkster. First written submission.
¹⁸ Brian Inkster. First written submission.
¹⁹ Brian Inkster. Second written submission.
²⁰ Scottish Land and Estates. Written submission.
51. The Law Society of Scotland also raised concerns about the drafting of the Bill, stating that—

“We would urge the committee to consider what the most efficient, effective way of achieving the desired outcome is, as an additional layer of complexity on top of what is already a dense and complex body of law is not desirable.”

52. The Minister told the Committee that the Bill could, indeed, have been shorter but that the Scottish Government wanted to clarify the issue of decrofting for owner-occupier crofters beyond any doubt. He stated that he hoped the Scottish Government had achieved the desired balance between making the Bill legally competent, appropriately comprehensive and as clear to understand as possible. He also added that the Bill had been drafted to try and reduce the scope for misinterpretation and disagreement.

53. In terms of whether the Bill would require any amendment at Stage 2 or 3, the Minister said that he would look at all the specific comments that had been made on the Bill but that he was not aware of any defects in drafting at present.

54. The Committee notes the criticism of the drafting of the Bill, particularly by those who will be left to interpret and advise on the law. The Committee is not expert in the legal detail and potential inconsistencies within crofting law and it is therefore difficult for the Committee to give a definitive view at this stage on the validity of some of the concerns raised.

55. It is clear to the Committee that there are concerns which require to be considered. The Committee strongly recommends that the Scottish Government give appropriate consideration to the evidence submitted to the Committee with a view to determining whether any of the issues raised require to be addressed by amending the Bill at Stage 2.

Will the Bill solve the problem?
56. Despite the concerns detailed above, as there seemed to be agreement regarding the policy intention of the Bill, the Committee asked witnesses if the Bill as drafted would achieve that policy aim.

57. When asked if the Bill as drafted would solve the current problem, despite any concerns around the drafting in terms of consistency and clarity, and more general concerns about the accessibility and transparency of crofting law in general, Sir Crispin Agnew QC said “broadly, yes.” Derek Flyn agreed that the Bill would achieve its policy aim and David Balharry, Head of Regulation at the Crofting Commission, also believed the Bill as drafted would achieve its policy intention—

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21 The Law Society of Scotland. Written submission.
"we believe that the bill addresses and solves the problem that was raised. We have not seen a need to take legal advice."\(^{23}\)

58. **The Committee is satisfied that the Bill, as drafted, will address the identified problem with the current legislation, and will enable owner-occupier crofters to apply to the Crofting Commission for a decrofting direction.**

59. **However, as stated above, the Committee is concerned that the many issues raised in evidence may lead to unintended consequences coming to light in years to come as a result of this legislation. The Committee therefore recommends that the Scottish Government gives full consideration to the exact wording of the Bill to ensure that all sections are appropriately worded and that it amends existing legislation in a way that will provide clarity, rather than add confusion, to an already complex area of law.**

Section 1 – applications to decroft by owner-occupier crofters

60. **Section 1 of the Bill amends the 1993 Act by inserting four new sections (24A – D) into that Act.**

61. The first of those new sections (24A) makes it possible for owner-occupiers to apply to the Crofting Commission for a decrofting direction (which is defined as a direction that the owner-occupier’s croft is to cease to be a croft).

62. The second new section (24B) outlines the powers of the Crofting Commission in considering such applications, and provides additional tests, to those already in the 1993 Act, for the Commission to use to determine whether to grant or refuse applications.

63. The third new section (24C) concerns the application of section 25 of the 1993 Act in relation to decrofting applications. Section 25 of that Act makes provisions about decrofting applications, such as advertising applications, the tests which must be satisfied before the Crofting Commission makes a decision, notification of decisions, and the procedure for appealing decisions. The new section 24C ensures that the 1993 Act will apply to owner-occupiers as well as tenants. It also makes a further change to section 25 of the 1993 Act relating to the sanctions for breaching the conditions of a decrofting direction, to ensure that the sanctions are appropriate for owner-occupiers. The sanction for owner-occupiers will be a revocation of the decrofting direction (the effect being that the croft will once more be a croft, and subject to the 1993 Act).

64. Finally, the fourth new section (24D) concerns the effect of a decrofting direction, confirming that, as with the case for tenant crofters and landlords under the 1993 Act, a decrofting direction means a croft is no longer a croft and not subject to the 1993 Act. Also, again as is the case for tenants and landlords under the 1993 Act, this will not mean that the land cannot be included in another croft in the future. The final part of new section 24D states that a decrofting direction

made in relation to a registered croft must be registered in the Crofting Register, and if that application is not made within three months, the direction falls.

65. This section of the Bill, and the four new sections which it inserts into the 1993 Act, is the heart of the policy intention of this proposed legislation, as it corrects the unintended consequence of the existing legislation, and makes it possible for owner-occupier crofters to apply to the Crofting Commission to decroft all, or part, of their croft. Some comment on the overarching policy aim of the Bill has been made above.

66. The Committee heard evidence from witnesses of several examples of people who were awaiting decrofting directions as a result of the Crofting Commission suspending the processing of applications. These included a young couple who are hoping to build a house on part of their decrofted land in order to start a family.

67. David Balfour stated in written evidence that the current suspension of applications to decroft has left many young crofters in Scotland in a state of limbo, after obtaining planning permission and securing a mortgage in a challenging economic environment, which could prove to be very costly.

68. There was some criticism, in both oral and written evidence, regarding the Bill defining a “decrofting direction” for the purposes of new sections 24A – D. Sir Crispin Agnew QC was of the view that defining “decrofting directions” in this Bill, when they are not so defined in the rest of the legislation, was anomalous. This was a position which Derek Flyn agreed with, noting that “To introduce the term “decrofting direction” at this time would be a mistake.”

69. Brian Inkster was critical of the proposed new section 24C in the Bill, a view which Scottish Land and Estates agreed with, stating in his written evidence—

“The proposed new section 24C(2) to the 1993 Act appears to be new law in that I cannot see why the existing section 25(1)(b) cannot equally apply as it stands to owner-occupied crofts. There should be no place for new law in the Bill rather than a necessary fix of existing legislation. Any new law requires careful consideration and should not be rushed through as part of this particular legislative process. Thus I would submit that the proposed new section 24C(2) should be removed from the Bill.”

70. Derek Flyn also noted this was an issue and suggested a change to 24C(2) was needed to make it more consistent with the current legislation. Sir Crispin Agnew QC was of the view that the flaw in this part of the Bill linked in to the issue of speculative development of crofting land. He explained a potential scenario to the Committee which demonstrated his concern—

“Let us say that the owner-occupier crofter decrofts the house site and transfers the rest of the croft to his wife. She was not the previous applicant, so she builds another house, applies as the applicant to decroft the new croft

24 Derek Flyn. Written submission.
25 Brian Inkster. First written submission.
house site, which she is statutorily entitled to do, and then transfers the rest of the croft to her son, who builds a new croft house. He was never the applicant, so he makes an application, and he has a statutory right.

That is a flaw in the bill. If somebody exploits it to get planning permission and all the rest of it, they will have an absolute right to decroft. That does not appear in the rest of the legislation for an ordinary crofter or an owner-occupier who is not a crofter [...].”

71. The Minister commented on Sir Crispin Agnew QC’s hypothetical scenario, telling the Committee that the aim in the Bill is to align owner-occupier crofters with tenant crofters as far as possible and further noted that decrofting a specific dwelling house site was a separate matter from decrofting for speculative development purposes, and that the Crofting Commission has the power to refuse decrofting applications in line with specific safeguards which are already contained in legislation.

72. Derek Flyn noted that elements of section 25(4) of the 1993 Act, disapplied by the Bill, should be retained to deal with the issue of the Crofting Commission not giving a decrofting direction if it would impede access to another part of the croft or other croft land. Derek Flyn believes this protection would be lost for owner-occupier crofters if the Bill as drafted were enacted.

73. In written evidence to the Committee, Jack and Dorothy Rendall noted concern that the Crofting Commission would be the only body to have the power to decide on decrofting applications from owner-occupier crofters as they believed the Commission to be “obsolete”. They suggested that—

“Crofting Commission matters be brought together with the Scottish Smallholders’ Association under RIPD/AFRC, thereby enabling greater access to grants for smallholders and crofters.”

74. Sir Crispin Agnew QC told the Committee that there were, in his view, several parts of the Bill as drafted that were inconsistent or open to varying interpretation and that could therefore potentially lead to further problems in the future. He provided the Committee with a specific list of all the parts of the Bill that he felt required to be addressed, and also told the Committee that he had sent this information to the Scottish Government.

75. In addition to those issues raised elsewhere in this report, Sir Crispin Agnew QC’s list of issues included—

- that the conditions on which the Crofting Commission “need not consider” an application, prevents an appeal being made on any such applications leaving judicial review as the only potential means for dispute resolution; and

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27 Jack and Dorothy Rendall. Written submission.
28 Jack and Dorothy Rendall. Written submission.
that any linking of the date decrofting directions take effect and the date of registration in the Crofting Register, could cause significant delays which could affect people wishing to borrow funds on the security of the decrofted land.

76. The Minister commented on Sir Crispin Agnew QC’s view on the “need not consider” provision mentioned above, telling the Committee that there were two reasons why the provisions had been worded in that way: firstly so that the Bill was consistent with the terminology used in the 1993 Act; and secondly to allow the Crofting Commission to suspend, rather than reject, applications in certain circumstances.

77. The Committee regrets the anomaly created by amending the 1993 Act via the 2010 Act, and that the consequence of this, whilst unintended, has prevented the Crofting Commission from deciding on applications from owner-occupier crofters to decroft all or part of their crofts.

78. However, the Committee welcomes the Scottish Government’s seeking to correct this issue quickly, and supports the provisions set out in section 1 of the Bill which seek to do this. As stated above, the Committee believes the Bill, as drafted, will rectify the issue and provide the clarity required for the Crofting Commission and for those making applications.

79. However, the Committee notes that a number of issues have been raised regarding the drafting of this section of the Bill, particularly with regard to the definition of a “decrofting direction”; the new section 24(C) which the Bill would insert into the 1993 Act; and the protecting of access to crofting land. The Committee recommends that the Scottish Government gives careful consideration to these specific issues ahead of Stage 2.

Section 2 – consequential modifications

80. The purpose of section 2 of the Bill is to introduce the Schedule, which makes amendments and repeals provisions in both the 1993 Act, and the 2010 Act. These are necessary because of the four new sections provided for in section 1 (as outlined above).

81. Brian Inkster argued in his written evidence to the Committee that this section would not have been necessary if a more simplified approach to the drafting had been followed by the Scottish Government, as was argued by both him and Sir Crispin Agnew QC.

82. The Committee is content with section 2 of the Bill, subject to the comments it has made on the Bill and comments on the Schedule later in this report.

Section 3 – retrospective effect and applications

83. Before the anomaly that this Bill is seeking to correct was identified, a number of owner-occupier crofters made applications to decroft which were granted. Section 3 provides that the changes made in section 1 are to be treated
as having come into effect from 1 October 2011, which is when the changes made by the 2010 Act came into effect.

84. If applied retrospectively, section 24D(3) would have required owner-occupier crofters of registered crofts to apply to register decrofting directions. As there was no requirement for owner-occupiers to previously register decrofting directions, none were registered, so section 24D(3) is not applied retrospectively.

85. 159 applications were ruled upon prior to the suspension of consideration of application, and a further 50 applications have been made, but are on-hold, pending the outcome of the Bill. The Committee questioned witnesses on the effects of the suspension by the Crofting Commission in processing decrofting applications by owner-occupier crofters, both on the 50 cases held in abeyance, and on those who may be waiting to make applications, but are unable to currently do so.

86. Richard Frew told the Committee that the 50 outstanding cases had all been checked, and would be processed as soon as possible, should the Bill be enacted. He added that owner-occupier crofters would be able to submit new applications the day after Royal Assent had been received for the Bill, and that there should not be any additional delay.

87. The Committee also questioned Scottish Government officials on whether there was any possibility that legal issues could arise with the 159 cases on which directions have already been given, as a result of the new legislation coming into force.

88. Richard Frew told the Committee that if the legislation were enacted it would be as if the new provisions had been in place since October 2011 and therefore there should not be any unintended consequences of applying the provisions retrospectively.

89. David Balharry told the Committee that he welcomed the retrospective provisions in the Bill and that the Crofting Commission was ready to process all the outstanding applications as swiftly as possible.

90. Derek Flyn and Sandy Murray, the Crofting Highlands and Islands Chairman of the National Farmers Union Scotland both told the Committee that as far as they were aware, owner-occupier crofters who are, or could be, affected by the Bill were satisfied that steps were being taken to solve the problem.

91. Brian Inkster welcomed the intent behind the retrospective provisions, but felt, as with the rest of the Bill, that it could have been drafted more simply. He also quoted, in his written evidence, comment on this section made by Neil King (commenting on the Bill at the Crofting Law Blog), who said of the drafting of the provisions—

"That’s the sort of Sir Humphrey Appleby nonsense that gives the law and legislative process a bad name. Go ahead with this short bill in these terms now to correct the problem in the short term (so long as they’re SURE that gobbledygook actually does correct it) but only on the strict understanding a
comprehensible bill to consolidate crofting legislation will be introduced asap.”

92. The Committee supports the retrospective application of the provisions in the Bill, to ensure that the intended effects of the 2010 Act are applied to owner-occupier crofters, both in the future, but also since the provisions for defining owner-occupier crofters came into force in October 2011.

93. The Committee recommends that the Crofting Commission seek to process any outstanding applications, and any that have not been able to be brought forward in the interim, as swiftly and efficiently as possible.

Section 4 – appeals against certain decisions etc.

94. On 25 February 2013 the Crofting Commission published a note which stated that owner-occupier crofters could not apply to decroft, and the Commission could not give decrofting directions, unless the croft was vacant. From 14 January 2013 to 25 February 2013 the Commission issued 21 decrofting directions and refused 1 application to decroft.

95. Those 22 cases were potentially still appealable at the time the Crofting Commission published its note on 25 February because the 42 day period outlined in the 1993 Act for making appeals had not expired.

96. Section 4 therefore enables an appeal to be made against decisions made by the Crofting Commission (both applications approved and denied) between 14 January 2013 and 25 February 2013, within 42 days of the Bill coming into force.

97. David Balharry noted he was pleased that this section had been included in the Bill. The Committee received no other specific comment on this section of the Bill.

98. The Committee supports the policy intention behind this section of the Bill, which should ensure that the appeals process is applied fairly and appropriately to all who have made decrofting applications, regardless of the suspension in the decision-making process. The Committee welcomes and supports the inclusion of these provisions.

Section 5 – transitory provisions

99. Not all the provisions on the Crofting Register that the 2010 Act inserted in the 1993 Act are in force yet. Therefore this section provides that, from the date the Bill comes into force, until 30 November 2013, certain provisions in the new sections are disapplied or subject to minor modifications. The new sections (24A-D) will apply in full from 30 November 2013.

100. The Committee is content with this section of the Bill.

29 Neil King, as quoted by Brian Inkster. First written submission.
Section 6 – commencement

101. The section simply states that the Bill will come into force on the day it is given Royal Assent, but that sections 3 and 4 have specific parts that will come into full force on 30 November 2013, as outlined above.

102. The Committee is content with this section of the Bill.

Schedule – consequential modification

103. As outlined above, the Schedule is introduced by section 2 of the Bill and amends the 1993 and 2010 Acts to make changes that are needed as a result of inserting the new sections 24A-D into the 1993 Act. These are mostly referencing amendments.

104. One of the more notable amendments however is to ensure that owner-occupier crofters can apply to decroft part of a croft, to ensure consistency with tenants and landlords.

105. The issue of applying to decroft part of a croft, depending on whether the applicant is an owner-occupier of a croft, or an owner-occupier crofter, is discussed later in this report.

106. Notwithstanding comment made elsewhere on the Bill as a whole, and on section 2, the Committee is content with this section of the Bill.

Issues not included in the Bill

107. During its evidence-taking, a number of other specific issues relating to crofting were raised with the Committee. Whilst accepting that the other issues raised with it were not appropriate to include in this Bill, given the volume of evidence it received on such matters, the Committee took the opportunity to explore some of the other areas of concern.

108. Two issues were outlined by Richard Frew who confirmed that the Bill does not address either the issue of the definition of an owner-occupier crofter in section 19B of the 1993 Act, or that of multiple owners of distinct parts of the same croft.

109. He explained that these two issues had not been included in the Bill as it would have widened the scope beyond that which could be reasonably considered by Parliament within an expedited legislative process, and would require lengthier consultation and consideration. He added that it was a matter for Ministers to determine if and when other outstanding issues of crofting law would be looked at by the Scottish Government.

110. On the issue of the definition of an owner-occupier crofter, Sir Crispin Agnew QC agreed that the issue needed to be looked at, and also told the Committee that it had consequences on other policy priorities of the Scottish Government. He gave the example of it not being possible for agreements made by owner-occupier crofters to be binding on their successors which was putting off investors in wind farm developments.
111. With regard to multiple owners of distinct parts of one croft, the Committee heard a significant amount of evidence. Scottish Land and Estates considered it was a notable problem and one that should, and could, have been addressed in the Bill.

112. Brian Inkster also made comment relating to multiple owners of parts of the same croft, and how the different definitions in law of owner-occupiers of a croft, and owner-occupier crofters, have created an anomaly which prevents multiple owners of one croft bring able to decroft their part of that croft – rather such applications to decroft have to be made jointly by all owners of that croft. This issue was also raised by Neil King, in written evidence to the Committee, and by Liam McArthur MSP.

113. Neil King outlined the problems that are caused, in his view, by multiple owners of the same croft not being able to apply to decroft without the permission of all of the relevant owners—

“Where I think this could have great potential for injustice is when land (typically a small area, perhaps part of a garden) is bought in good faith without it being realised that it is croft land. Due to the fact that, hitherto, there has been no map-based crofting register, this can, in my experience as a rural property lawyer (now retired), happen very easily. When the crofting status of the land subsequently comes to light, the purchaser’s remedy – to apply for decrofting – is dependent on the goodwill of a neighbouring owner.”

114. Neil King proposed how the Bill could be amended to address this issue.

115. The Committee asked Richard Frew if he felt the multiple owner issue was a significant one, to which he replied, “I would not necessarily say that the issue is significant.” He went on to say that owners could apply jointly to the Crofting Commission to decroft part of the croft, however the Committee heard, anecdotally, that such owners were not agreeing to act jointly, which was the problem with the current law. Joseph Kerr, Head of Crofting Services at the Scottish Government, later confirmed that approximately 700 people were potentially involved in the multiple-owner issue.

116. In terms of other issues raised, Derek Flyn raised the issue of crofters being required to register their crofts and having to place an advert in a local newspaper which can cost up to £100. He noted—

“If every crofter who has a croft—there are 18,000 crofts—has to pay £100 to explain that he has his croft in the register, crofting is paying £1.8 million to advertise the fact that the crofts are being put on the register. For what purpose?”

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30 Neil King. Written submission.
117. Calum McLeod, a solicitor from Harper Macleod LLP, also raised a number of issues, calling for a review of crofting legislation in order to identify other unintended consequences or anomalies which are, in his view, “a result of some badly drafted provisions in the 2010 Act.”

118. Other issues raised with the Committee included—

- requests to extend or disapply in certain areas the rule that an owner-occupier or tenant crofter must be ordinarily resident on, or within 32 kilometres of, the croft;

- differences between different owners or tenants of crofts in the laws relating to inheritance;

- the trigger point for croft sale and first registration in the Crofting Register; and

- the number of common grazing shares attached to a croft.

119. The Minister said that he was aware of the various other crofting issues which had been raised with the Committee during its evidence-taking. He added that whilst he did not believe that any of them required the urgent action that the owner-occupier crofter decrofting issue required, the Scottish Government would consider all of the issues carefully to determine what further action may be needed. The Minister also gave a commitment to keep the Committee informed of progress and developments.

120. The Committee notes the significant number of other issues, in addition to that of owner-occupier crofters’ being able to decroft their land, which were drawn to the Committee’s attention during its scrutiny of the general principles of this Bill.

121. The definition of what legally constitutes an owner-occupier crofter, and issues facing multiple owners of distinct parts of the same croft, seem, from the evidence submitted, to be the most pressing. However, the Committee is of the view that this Bill is not the appropriate place to seek to address such issues, given the urgency of the current problem, and the expedited process that is being sought to try and rectify the situation as soon as possible.

122. The Committee urges that, outwith this Bill, the Scottish Government reviews all of the issues raised with the Committee, in order to determine the extent and effect of each issue, consulting widely where necessary. This review should explore all possible options for making any changes to legislation or process which may be required as a result. This includes options such as further primary legislation; secondary legislation (including powers contained in the 2010 Act; powers of direction; and making use of powers in the Public Services Reform (Scotland) Act) 2010. The Committee recommends that the Scottish Government identifies a clear timeframe for

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33 Calum McLeod. Written submission.
the review and provides the Committee with progress updates on this work once it is underway.

Complexity of crofting law and how best to address it

123. The Committee heard that crofting law was now extremely complicated and that legal professionals have difficulty understanding it, let alone crofters, landlords and other members of the public. A discussion ensued in Committee about what the best way forward was with regard to crofting law: how could it be simplified and made fully fit for purpose and accessible?

124. By way of background, the Committee notes that the then Scottish Executive established a Committee of Inquiry on Crofting which reported in May 2008. The remit of the Inquiry was—

“to develop a vision for the future of crofting, having drawn on evidence and provided an analysis of the extent to which crofting, with its current regulations and incentives, contributes to achieving the following outcomes across rural Scotland as a whole:

- sustaining and enhancing the population;
- improving economic vitality;
- safeguarding landscape and biodiversity; and
- sustaining cultural diversity.”

125. The Scottish Government responded to the inquiry’s report in October 2008, setting out five key principles that were considered to be central to secure the future of crofting and of remote and rural crofting communities. These were—

- maintaining and increasing the amount of land held in crofting tenure;
- ensuring that land in crofting tenure is put to productive use;
- ensuring that housing in the crofting counties makes a full contribution to the local economy;
- giving more power to local people to determine their own futures; and
- assisting young people and new entrants into crofting.

126. Sir Crispin Agnew QC told the Committee that if the Scottish Government had a clear social policy justification for having regulated tenure of small landholdings i.e. crofts, in the Highlands and Islands, then it was anomalous for some small tenant farms, which are very similar to crofts, to be outside crofting. The 2007 Act gave a power for small landholders outwith the crofting counties to

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apply to convert their landholdings into crofts in areas designated by Ministers by order, and Arran, Bute, Greater and Little Cumbrae, Moray and parts of Highland not already within the seven traditional crofting counties were designated as new crofting areas with effect from 4 February 2010\(^{35}\). However the Act does not apply to agricultural tenancies, and Sir Crispin Agnew QC seemed to be arguing that some farm tenancies in the Highlands and Islands are very similar to crofts. He added that the best way forward for crofting law may be to start with a blank sheet of paper and start afresh.

127. Cyril A Annal emphasised the need for crofting law to be simplified—

“An act that is a readable document and can be easily understood is essential and a simplification of the 1993 Act should be considered by Parliament. The present Act is a rehash of older Acts, amendments to Acts and does not address the true issues of modern crofting.”\(^{36}\)

128. There were several other such comments. Neil King noted—

“Crofting legislation is now in such a mess, what with all the amendments of amendments, that it brings the Scottish legislative process into disrepute [...] If I were a member of the RACCE committee, I’d be recommending acceptance in principle of this bill (subject to the amendment suggested above [in his submission]) only on the strict understanding the Scottish Government launches, within a very short timescale, a consultation to identify the numerous other glitches in the crofting legislation and then publishes a bill to (a) correct these glitches; and (b) consolidate all crofting legislation into a single, comprehensible Act.”\(^{37}\)

129. And, Eilidh I.M. Ross of Inksters Solicitors commented that—

“Not only are there many anomalies, hiccups, and unforeseen consequences of the provisions currently contained in the Crofters (Scotland) Act 1993 caused by the Crofting Reform (Scotland) Act 2010, but the 1993 Act itself is, in my view, a mess [...] The crofting act is important not simply from a historical perspective (although in my view that element is important); it is an essential part of the economic and social fabric of the Highlands and Islands and it is simply not acceptable that the legislative framework which supports that system is such a shambles. It is now incumbent upon the Scottish Government, once this single problem amongst many has been addressed (albeit in my view doing so complicates matters still further), to address the 1993 Act without delay. It is no exaggeration to say that the future of the crofting system as a legal entity depends upon it.”\(^{38}\)

130. Brian Inkster wrote that a commitment should be given by the Scottish Government to introduce a bill following the summer recess in 2013 to address the various other anomalies in crofting law which had been created by the 2010 Act. This statement was supported in written evidence by others, including Cyril A

\(^{35}\) By the Crofting (Designation of Areas) (Scotland) Order 2010 SSI 2010/29.

\(^{36}\) Cyril A Annal. Written submission.

\(^{37}\) Neil King. Written submission.

\(^{38}\) Eilidh I.M. Ross. Written submission.
Annal, and The Law Society of Scotland, which was also of the view that a review of crofting law was needed at the earliest opportunity.

131. Derek Flyn expressed some of the long-standing frustration at the development of crofting law over time—

“More than a century ago, a textbook said that crofting law was more complicated than the tax laws. Every time there is a reform, it is always stated that crofting law is to be simplified but, every time, we get another layer on top of what has gone before.”

132. Joseph Kerr noted that in terms of consolidation of the law, the Crofting Commission website contained a publically available version of the 1993 Act as amended by subsequent Scottish Parliament legislation in 2007 and 2010. This places crofting legislation together in one place and therefore makes it easier to access.

133. The Minister acknowledged the concerns about crofting law which had been made to the Committee and that, whilst it was “too early to say what might be a sensible way forward” the issue would be considered by the Scottish Government.

134. The Committee was struck by the strength of opinion, particularly from lawyers working in crofting, on the current poor state of crofting law. Many of those who provided evidence to the Committee said that crofting law was not fit for purpose, and that it was overly complex and impenetrable. There was a concern expressed that the Bill was adding another layer of complexity on to a set of statutes that was described by some as “a mess” and “a shambles”.

135. It is clear to the Committee that there are significant concerns, particularly within the legal profession, about current crofting legislation and the Scottish Government needs to respond to these concerns.

136. The Committee is also of the view that consolidation of the law on crofting, which was called for in some of the evidence submitted to the Committee, would not, in itself, address issues of simplification, comprehension and inconsistency. Consolidation would place all of the law in one place, to make it easier to access, but not necessarily to understand. What may also require consideration is codification of the law, i.e. restating the policy in revised, simplified, terms.

137. The Committee therefore recommends that the Scottish Government considers all the evidence given to the Committee on the current state of crofting legislation, and writes to the Committee to outline how it intends to respond to the points made, and how it plans to ensure crofting law is as clear, competent, consistent and fit for the 21st century as possible.

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Policy Memorandum

138. In his written evidence, Derek Flyn noted that the phrase “owner-occupier crofters” in paragraph 7 of the Policy Memorandum should, in fact, read “owner-occupiers”.

139. Given the Committee’s comment on the difference between owner-occupier crofters, and owner-occupiers of a croft, made earlier in this report, the Committee believes the associated document should be amended, should the Scottish Government agree with Derek Flyn.

140. The Committee is otherwise content with the Policy Memorandum which accompanies the Bill.

Financial Memorandum

141. As mentioned earlier in this report, the Bill is accompanied by a Financial Memorandum (FM). This would, in normal circumstances, be subject to scrutiny by the Finance Committee, which would then advise the lead committee of its findings. However, due to the expedited nature of consideration of this Bill, the Finance Committee was not able to complete scrutiny of the FM within the available timescales. Therefore, the RACCE Committee agreed to consider scrutiny of the FM as part of its Stage 1 consideration.

142. The FM sets out the anticipated financial implications of the Bill, and is set out under the headings of: The Scottish Government; The Crofting Commission; Owner-occupier crofters; Local authorities; The Scottish Legal Aid Board; Other landowners; The Scottish Land Court; and The Registers of Scotland. Out of those bodies, there is no cost anticipated for local authorities, other landowners; or for The Registers of Scotland.

143. The FM states that there is no anticipated significant additional cost to the Scottish Government resulting from the Bill. It is estimated that it will cost the Crofting Commission £158,595 per year to process applications to decroft from owner-occupier crofters. There will be a retrospective cost, which is estimated at £30,000 and the Scottish Government intends to provide additional funding to the Crofting Commission to cover these costs.

144. In terms of the Scottish Land Court, the FM estimates the cost of dealing with an appeal at £3,000. The FM goes on to state that the expectation is that 2% of refusals would be appealed to the Court, although only one out of four refusals between October 2011 to September 2012 was appealed.

145. As legal assistance may be available to owner-occupier crofters in the event of an appeal against a decision on a decrofting application, the Scottish Legal Aid Board (SLAB) may incur costs as a result of the Bill. SLAB has stated that the costs of the last five such appeals it has heard, between 2005 and 2010, varied between £277 and £13,842, with the average cost therefore being £7,683. With all the available evidence, the FM anticipates that the impact on legal aid to not be significant. However, given the difficulty in quantifying estimated legal aid costs, the Government recommends that owner-occupiers consult the Crofting
Commission and those with an interest in the decrofting prior to submitting an application in an effort to reduce the likelihood of appeal and possible costs.

146. Finally, the FM anticipates costs to owner-occupier crofters themselves, in terms of registration, certain potential administrative fees, and possible legal costs as outlined above.

147. The Committee questioned Scottish Government officials on the £30,000 stated in the FM that will be made available to the Crofting Commission to process the 50 applications currently held in abeyance. Given that the FM states that the average cost of considering a single application is between £1,257 and £1,284, this would put the cost at handling the 50 outstanding cases at more than double the £30,000 which the FM makes available.

148. Richard Frew told the Committee that the £30,000 figure in the FM reflected the time that had already been spent by the Crofting Commission considering the applications, which was why the figure was not 50 times the cost of processing a single application. He added that the Scottish Government was confident that the £30,000 figure would be sufficient, based on information provided to the Government by the Crofting Commission.

149. The Committee is content that the Financial Memorandum which accompanies the Bill adequately, and as accurately as can be reasonably expected, sets out the potential costs on a range of bodies and individuals which could be financially affected by the Bill.
ANNEXE A: EXTRACT FROM THE MINUTES OF THE RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

MINUTES

16th Meeting, 2013 (Session 4)

Wednesday 8 May 2013

Decision on taking business in private: The Committee agreed to take items 4 and 5 in private and also to take its consideration of evidence taken, and any draft report, on an expected crofting bill, in private at future meetings.

Expected crofting bill (in private): The Committee agreed its approach to an expected crofting bill.

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

MINUTES

17th Meeting, 2013 (Session 4)

Wednesday 15 May 2013

Crofting (Amendment) (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

Richard Frew, Policy Adviser, and Kenneth Htet-Khin, Senior Principal Legal Officer, Scottish Government;
David Balharry, Head of Regulation, Crofting Commission;
Sir Crispin Agnew QC, Chairman, Crofting Law Group;
Derek Flyn, Chair, Scottish Crofting Federation;
Sandy Murray, Crofting Highlands and Islands Chairman, National Farmers Union Scotland.

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

MINUTES

18th Meeting, 2013 (Session 4)

Wednesday 22 May 2013

Crofting (Amendment) (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

Paul Wheelhouse, Minister for Environment and Climate Change; Richard Frew, Policy Adviser;
Kenneth Htet-Khin, Senior Principal Legal Officer;
David Barnes, Deputy Director, Agriculture and Rural Development;
Joseph Kerr, Head of Crofting Services, Scottish Government.

Crofting (Amendment) (Scotland) Bill (in private): The Committee discussed the evidence heard earlier in the meeting.

MINUTES

19th Meeting, 2013 (Session 4)

Wednesday 29 May 2013

Crofting (Amendment) (Scotland) Bill (in private): The Committee agreed a draft Stage 1 report.
ANNEXE B: ORAL EVIDENCE

17th Meeting, 2013 (Session 4), Wednesday 15 May 2013

ORAL EVIDENCE

Richard Frew, Policy Adviser, Scottish Government;
Kenneth Htet-Khin, Senior Principal Legal Officer, Scottish Government;
David Balharry, Head of Regulation, Crofting Commission;
Sir Crispin Agnew QC, Chairman, Crofting Law Group;
Derek Flyn, Chair, Scottish Crofting Federation;
Sandy Murray, Crofting Highlands and Islands Chairman, National
Farmers Union Scotland.

18th Meeting, 2013 (Session 4), Wednesday 22 May 2013

Paul Wheelhouse, Minister for Environment and Climate Change;
Richard Frew, Policy Adviser, Scottish Government;
Kenneth Htet-Khin, Senior Principal Legal Officer, Scottish Government;
David Barnes, Deputy Director, Scottish Government;
Agriculture and Rural Development, Scottish Government;
Joseph Kerr, Head of Crofting Services, Scottish Government.
ANNEXE C: LIST OF OTHER WRITTEN EVIDENCE

SUBMISSIONS RECEIVED IN RESPONSE TO CALL FOR VIEWS

- Cyril A Annal (138KB pdf)
- David Balfour, Shetland Crofter (81KB pdf)
- Cecil Eunson, Shetland Chairman NFU Scotland (90KB pdf)
- Derek Flyn, Chair of the Board of the Scottish Crofting Federation (262KB pdf)
- Brian Inkster, Inksters Solicitors (Part 1) (245KB pdf)
- Brian Inkster, Inksters Solicitors (Part 2) (151KB pdf)
- Brian Inkster, Inksters Solicitors (Part 3) (160KB pdf)
- Neil King (329KB pdf)
- Law Society of Scotland (137KB pdf)
- Calum MacLeod, Solicitor from Harper Macleod LLP (143KB pdf)
- North Ayrshire Council (141KB pdf)
- Jack and Dorothy Rendall (138KB pdf)
- Eilidh I.M. Ross, Inksters Solicitors (139KB pdf)
- Scottish Land & Estates (83KB pdf)
Members who would like a printed copy of this Numbered Report to be forwarded to them should give notice at the Document Supply Centre.