

Cross-Party Group on Crofting

11 May 2022

Minutes

Present

MSPs

Edward Mountain MSP (Chair)
Ariane Burgess MSP
Beatrice Wishart MSP
Alasdair Allan MSP

Invited guests

Michael Nugent SG
Brian Inkster CLG
John Cowan SG
Gordon Jackson SG
Bill Barron CC

Non-MSP Group Members

Patrick Krause (Secretary)
Neil Macdonald CC
Siobhan Macdonald SAC
Mairi Mackenzie CC
Karen Macrae CC
Ian Wilson NFUS
Claire Hardy JHI
Anna Brand SPICe
Lynne Hendry CC
Aaron Ramsay CC
Kenneth Armit CC
Russell Smith SCF
Richard Frew QLTR
Finlay Beaton CC
Daniel MacLean CC
Murdo Mackay CnES
Fiona Mandeville SCF
James McPherson SCF
Sandra Lindsay SCF
Brendan O'Hanrahan CHT/UDT
Lynne MacMillan CC

Duncan Gray CC
Fiona Mackenzie UHI
Christopher Dickinson CC
Arthur Macdonald CC
David Skene UHI
Donald MacDonald CC
Rhona Elrick ROS
William Neilson crofter
Iain Edmond ROS
Lucy Beattie PhD UWS
David Muir SCF
Neil Ross HIE
Eilidh Ross Camus Consulting
David Campbell CC
Darren Laing BBC
Aileen Rore SG
Jacqueline Kelly ROS
John Toal SCF
Carol Bab crofter
Lena Horch SCF
Jamie McIntyre WCP

Christina Noble JHI
Donald Meek crofter
John MacAskill NFUS
Rhianna Montgomery NFUS
David Cameron CLS
Patricia Clark MSP office
Donald MacKinnon SCF

Donald Murdie SCF
Abigail Campbell SWT
David Findlay CC
Ashley Atkins MSP office
John Norman Macleod grazings clerk

Apologies

Liz Barron-Majerik
Jenni Minto MSP
Malcolm Matheson
Lauren Worrell
Michael Foxley
Iona Hyde
Eleanor Garty

Andrew Connon
Fergus Ewing MSP
Iain McIver
Bill Dundas
Maria de le Torre

Agenda item 1

Welcome and apologies

The convener welcomed everyone to the meeting and apologies were noted.

Agenda item 2

Agreement of the minutes of the last meeting

The minutes of 23 February were agreed

Agenda item 3

Matters Arising

Item 6. Geese. Adaptive management funding stopped last year. A small amount has been made available but not enough to stem population growth. There seems to be a suggestion that goose management should come under agri-environment scheme, but this would be for individuals, not for goose management groups.

There is a review of goose management about to start but by the time this reports and any action is taken the populations will have escalated further, to a point of no return – crofters will have gone out of business.

Action: to invite NatureScot to a future meeting to report on progress of goose management review, and keep the topic live on the agenda.

Agenda item 4

Crofting Law Reform

1. Michael Nugent, Scottish Government, outlined an action plan to prepare a bill to reform crofting legislation. The main points included:

- There will be a crofting bill in this parliamentary term. There is no timetable as yet, it being dependant on other legislation, but will be scheduled in the Programme for Government.
- Last attempt started in 2016 with two phases planned. 2016-2018 Crofting Bill Group identified over 40 amendments needed, condensed to 31 for phase 1. The process was halted in October 2019 due to Brexit.
- The current reform process has reinstated the Crofting Bill Group and will work on the issues identified last time, plus some further identified, plus 4 issues identified by the Law Society of Scotland, totalling 42 issues. On top of this, the Crofting Commission has been asked what changes it needs in law to help it to discharge its duties.
- Progress reports will be provided to this cross-party group and there will be consultation at the appropriate time.
- The SG Crofting Bill Team will comprise Michael Nugent and Aileen Rore, plus additional resources.
- There will be some big issues that people would like to be resolved that there will not be time for in this parliamentary term.

2. Brian Inkster, Crofting Law Group, gave a lawyer's view of the crofting law reform process. The main points included:

- Good to see that there is a bill process again, but worrying that there is as yet no timetable – the danger being that it is left too late and is rushed through or doesn't go through at all. A timetable is needed.
- Seems to be a clear focus on how everything is to be achieved.
- It was mentioned that some things will not be included. Can we have a list of those? There is danger that things get side-lined because they are deemed 'complex'. Most crofting law is 'complex'. We must not let this deter us from achieving as much as we possibly can. For example, mortgages on crofts was dropped as considered too difficult. It is widely held that this needs to be sorted as getting mortgages on crofts could help new entrants. So we need to see what items are being considered for dropping, with the reasons.
- The sooner drafting starts the better. There are many items resolved now so even though there is not a timetable could those items signed off be drafted? It is important to have time to scrutinise drafts as historically many problems were caused by bad drafting.
- The Crofting Law Group would like to be involved with the process and could aim to hold a conference on crofting law reform this autumn, at which we could deal with some of the more complex issues.
- A specific issue is deemed crofts and we had discussed re-attaching grazings shares to crofts. This is something that must not get waylaid as it is a very important issue to take advantage of this bill with.

The convener then asked Bill Barron for comment:

The Commission has had sight of the list and there is much that we are keen to get onto statute as soon as possible as it will help us to discharge our duties. The Commission will also contribute to the list with things that will help with efficient and effective regulation. It may also be possible to simplify the law and make it more possible for crofters to navigate.

As there is no mention of a phase 2, whilst there may be another look at crofting law in the future, it is assumed this is the 'one chance' so important to get everything in it that is really needed.

The Commission are fully behind this and want to see it happen.

Discussion

Convener: The REC committee carried out an in-depth review of crofting law reform in the last parliamentary term – needs to be looked at again. This time the RAINE committee will scrutinise the proposed bill and with the various stages you are looking at a year from stage one to stage three. SG will also be wanting to pass the agriculture bill so it is likely this legislation will not get to parliament until 2024; any later than this and there would be concerns about getting it through in time as it takes about two years from presentation to passing. Could SG comment on the timetable?

Answer: The REC report will be considered. The aim is to definitely deliver in this parliamentary term. We will address the 29 issues where we believe there was consensus, so the SG can start the background work – policy instructions, impact assessments and so on, and to start the drafting. Whilst we do that we can then consider the other issues. To clarify, we are not ruling any specific issues out, but not all issues will get dealt with. We believe the 42 identified issues are achievable and when they are signed off we will continue with further issues up to the deadline – i.e. if we have time we will add further amendments.

We have already started consulting with stakeholders – we have sent the group a list and invited comment, then will hold a series of meetings to confirm and sign off on the issues. There will be a formal consultation but that has not been programmed yet.

Question: Will there be an enabling section in the bill so that a Statutory Instrument could amend the Crofting Act? At the moment the full parliamentary procedure of a bill is required. It would enable amendments due to unintended consequences, which always arise.

Answer: I don't have an answer but would welcome this being raised by SCF in the crofting bill group.

Comment: The list prepared is good but the issue of carbon credits hasn't been added to it – we need to look at how legislation relates to ownership of carbon, carbon sequestration - land or trees, to enable opportunities for crofters and clarity for those owning land in crofting tenure.

Answer: Yes, a very topical issue that will need to be discussed in the bill group.

Question: If the bill goes through and, after a period, everyone is happy that crofting law works, will there be a consolidation bill to bring together all the amending acts we have since 1994, which was the last consolidating act?

Answer: Not in this parliamentary term. It would be up to the next government.

Agenda item 5

Crofting administration

Crofting Commission's CEO Bill Barron updated on the work of the commission, The main points included:

- There was an election in March; the results being that 2 commissioners retained their seats on the board, there were 2 new commissioners elected and there were 2 elected again having served on a previous board. So 4 commissioners have left. And 2 appointed commissioners leave later in the summer.
- Turnout for elections was poor with 30% (2017 election saw 40% turnout). A large drop was in Western Isles – perhaps due to there being only one Lewis-based candidate standing. Constituencies will be discussed by board.
- A draft policy plan has been drawn up and can be seen on the CC website, and will go out to stakeholder consultation.
- The Annual Notice ('the census') was only on-line this time. The response was up slightly (70%) on last year – perhaps helped by phone-call reminders to those who hadn't responded for 3 years. The whole process, getting responses and following up on responses, takes a lot of energy.
- The back-log of regulatory applications has been a trial for crofters and their representatives. It went down slightly last month, and we hope to keep that trajectory. Phone calls asking for updates on applications are overwhelming.
- There was confirmation in April that the CC budget will be increased substantially. It will fund 14 additional staff posts.
- Board meetings are back to in-person for board members and staff, and guests can join on-line.

Discussion

Question: The low level of turnout for the elections perhaps relates to the low level of response to the annual census – some 25% or so not complying with the legal requirement to return a census? And many of us see the neglect around us, all the signs of abandonment. It is a terribly sad situation. Could you comment?

Answer: the commissioners are trying to tackle this by putting resources into the Residency & Land Use team – there will be 3 more people in the next few months. But 'the stick' alone isn't working - we need to change the culture.

Question: The processing of applications has been taking a long time, so long that cheques have been going out of date. Applicants are then asked to do bank transfers. There seems to be no system to ensure that payments are taken. For solicitors' applications, if the FAS number were on the form, ROS could simply take the payment.

It would of course be different for individuals, but could this be considered to make payments easier?

Answer: Yes, this is being looked into. We are trying to encourage bank transfers rather than cheques, and please email me regarding FAS payments.

Comment (CC development): CC don't have the usual tools of a development agency to hand, but are looking at how to get more crofts utilised; we are compiling contacts, including agencies, which can offer advice and help. The problem is that those who have already 'disengaged' don't come to websites or read available information on how to solve the problem. Contacting them at local level is possibly the only way. We have reinvigorated the assessor network, who are keen to address this, and have contacted grazings committees. The intention is to get more crofts released, which will help with demand from new entrants.

Comment: Uncashed cheques – a solution would be to not charge for registration. The registration charge and cost of advertising is a disincentive to register, it is a high cost to crofters.

Answer: That would be up to ROS (CC don't receive anything).

Comment: Grazings Committees cannot be expected to police the system – it is a tough ask just to be an unpaid volunteer on a committee as it is – so don't ask us to do what the CC should be doing. There are more than enough SGRPID officials inspecting us, who are using our crofts, but they don't go near those who are depriving others of their rights. Let the professionals act and don't expect us amateurs to do it.

Comment: In reference to "long legal processes"; now is the chance for the CC to put forward suggestions for amendments to crofting law that will tighten up these processes.

Answer: It is about getting the balance right between individual rights and community rights. It is a big thing to take someone's land rights off them. Whilst having the 'iron fist' in reserve, many folk would actually like to pass on their croft but don't know how to – which is where the development approach can work.

Agenda item 6

The Bull Scheme

John Cowan, SG Bull stud (Knocknagael Farm) manager, gave an overview of the Crofting Cattle Improvement Scheme. the main points included:

- New stud opened in 2013.
- Knocknagael farm, as well as running the stud, produces cereal for feed and malting, and satisfies own silage needs.
- The herd is kept to around 140 (currently 137), a mix of exotic and native breeds. For the first time this year there is a Hereford. Currently have 114 bulls to go out, which will probably rise to 120 – usually around 115 per year.
- The scheme is open to crofting groups – from 2 to 90 members.
- Cost £1302 if the bull is wintered at the stud – a few stay on croft and the charge is slightly less.

- Benefits include High Health status and high genetic potential (top 40% EBV min), over-wintering, lack of AI now, especially in crofting areas, offspring fetch high prices at sale, maintaining cattle numbers which has an environmental benefit.
- The bulls are carefully selected for physical form (true to type and suitable for rough grazing) and temperament.

Discussion

Question: What interest is shown in native breeds?

Answer: Highlands tend to be closed herds; we used to have about 46 Shetlands, but the Shetland heard tends to keep to itself now; interest in trying Herefords; we anticipate more interest in traditional breeds as they are easier to maintain.

Question: Do you do semen collection and make it available?

Answer: No, the biosecurity requirement is too great, plus it might compete with commercial providers, which we can't do.

Question: Can people visit the stud (by appointment)?

Answer: Absolutely, very welcome.

Agenda item 7

None

Agenda item 8

Date Of Next Meeting

14 September 2022

[this was postponed due to the national mourning period]