

CROSS-PARTY GROUP on CROFTING
Meeting 9 of Parliamentary Session 4
Scottish Parliament, room Q.1.04
Wednesday 19 September 2012 at 18.00

MINUTES

Present:

Jamie McGrigor MSP¹ (Chair)
Patrick Krause SCF (Sec)
Douglas Pattullo Office of Jamie McGrigor MSP
Sandy Cross CC
Lucy Sumsion NFUS
William Neilson, NFUS
Hugh Donaldson HIE
Gwyn Jones EFNCP
Jean Urquhart MSP
Billy McKenzie SG
Richard Frew SG
John Brownlee SG
Gordon Jackson SG
Jean Balfour SLE
Norman Leask SCF
Murdo MacLennan CC
Paul Wheelhouse MSP Minister for Environment SG

1. Welcome and Apologies.

Jamie McGrigor welcomed everyone and introduced new faces. Apologies were received from:

Derek Flyn SCF; Russell Smith SCF; Jim Lugton SCF; Rob Gibson MSP; Rhoda Grant MSP; Dave Thompson MSP; Tavish Scott MSP; Kim Karam Office of Tavish Scott MSP; Katrina Marsden SPICe; Pam Rodway SAS; Nigel Miller NFUS; Sandy Murray NFUS; Sarah Anderson NFUS; Isobel McCallum HC; Amy Corrigan RSPB; Andrew Midgley SLE; Rosi Waterhouse SG;

2. Minutes of the previous meeting

Minutes of 20 June agreed.

3. Matters arising

The planning report referred to in the last meeting has not been sent.

Action: PK to follow up.

¹ **Acronyms:** MSP Member of the Scottish Parliament; SCF Scottish Crofting Federation; CC Crofting Commission; SG Scottish Government; HIE Highlands & Islands Enterprise; NFUS National Farmers Union Scotland; EFNCP European Forum for Nature Conservation & Pastoralism; SLE Scottish Land & Estates; SPICe Scottish Parliament Information Centre; SAS Soil Association Scotland; HC Highland Council; RSPB Royal Society for the Protection of Birds; CAP Common Agriculture Policy; SRDP Scotland Rural Development Programme; LFASS Less Favoured Area Support Scheme; ANC Areas of Natural Constraint; CCAGS Crofting Counties Agricultural Grant Scheme; LCA Land Capability for Agriculture; LMO Land Managers' Options; EC European Commission; ECHR European Court of Human Rights.

4. "Agri-environment on common grazings - a weakness in the RDP process?"

Gwyn Jones, EFNCP, was to give a presentation but due to lack of AV could not so deferred to next meeting.

5. CAP / SRDP Updates

John Browlee, SG, gave an update on CAP negotiations so far:

Unlike previous reforms the CAP is now subject to the Co-Decision procedure which means the European Parliament now has an equal say on the outcome along with the European Council of Ministers.

Negotiations have been underway since European Commission published draft Regulations in October 2011. In May 2012 European Parliament's Committee on Agriculture and Rural Development (COMAGRI) published a draft report by Rapporteur, Capoulas Santos suggesting amendments to the Commission's proposals. In June 2012 the Danish Presidency, published its revised text also suggesting amendments to the Commission's proposals.

Scottish Government looked at the Santos and Danish Presidency suggestions and considered along with Scottish priorities. In July SG proposed some amendments to UK Government and Scottish MEPs suggesting that if they agreed to consider putting them forward to COMAGRI by their deadline for tabling amendments.

Among the amendments proposed were;

- Change to the allocation (2011 or double gate entry) to accept other evidence of activity such as those getting LFASS or SBS or submitting IACS.
- Nat Reserve – (Belt & braces job) change to ensure those active that don't meet 2011 rule get allocation through NR. – Also on-going NR to carry out further top-slice to accommodate future New Entrants.
- Greening – (Crop Diversification – increase threshold to above 20ha) (Permanent Grass – include heather – accommodate long rotations)

Several of these amendments are included in the 2500 or so amendments that have been submitted on the DP Regulations (7000 over 4 Regs) and are being considered by MEPs and will most likely be whittled down into a number of compromise amendments. It is expected that European Parliaments COMAGRI will vote on the amendments in November this year.

Details of the key dates for the CAP negotiations are attached as appendix A.

Discussion:

The National Reserve is very important to new entrants, who have no entitlements. This has to be a SG priority. Agreed.

New entrants include all people coming into agriculture, not just young entrants.

Is the 'Pack Inquiry Final Report' still live? Yes, it is referred to, amongst other sources of information.

There has been a New Entrants' Forum established. Is there sufficient crofting representation on it?

Action: PK to write to David Barnes regarding crofting representation on the New Entrants Forum.

Billy McKenzie, SG, gave a brief update on SRDP.

The 8 working groups have finished their round of meetings (except there is one more to go for ANC). Their final reports can be found on the SG website. A 'wash-up' meeting will be held on 02 October.

The introduction of the new SRDP may be delayed in which case interim measures are being sought. The ANC (to replace LFASS) may also therefore be delayed. If this is the case LFASS will continue.

Following on from the proposal for a crofting-specific scheme (an enhanced CCAGS) or a crofting sub-programme of SRDP, a meeting will be held prior to the next meeting to discuss alternatives.

Discussion:

Will the MLURI (now Hutton Inst.) LCA still be used? There is no intention to change it if it is appropriate.

The change to LFASS resulted in the Highlands and Islands losing out. The progression of reforms to LFASS has made it even worse – with better-off areas taking the highest payments. The ANC stakeholder group agreed that the principle must be that the most constrained areas get the highest support payments.

Activity – there needs to be a support incentive to keep stock and therefore keep people in the countryside.

It is important to look at pillars 1 and 2 as a package – does the CAP deliver for crofting?

Does Article 20 'support for rural businesses' include farmers and crofters?

Article 20 is open to all micro and small businesses in rural areas, not just agricultural. So all micro and small businesses in rural area can apply for business start-up aid. This is up to 70,000 euro's over 5 years payable in at least 2 lump sums. Assessed on receipt of business plan and final payment made on successful implementation of plan.

LMO's must be more appropriate or got rid of in favour of a more streamlined scheme. This is under consideration.

Crofting starts at a lower economic base; what is being considered for crofting and especially new entrants? A crofting specific scheme (an enhanced CCAGS) or a Highlands & Islands / crofting sub-programme are under consideration.

If there is a delay in implementing the new SRDP will there be a bridging facility?

On Gap Year (transition), if the EU process has delayed implementation beyond point where we can deliver a new programme in 2014 we will ensure key priorities (including support for Crofting) are maintained in the interim using domestic money only. This is very much Plan B as we hope the Commission will allow all current programmes to roll over until the new regulations and programmes are agreed and in place.

6. Implementation of the 2010 Crofting Act

Richard Frew, SG, provided an update on the implementation of the Crofting Reform (Scotland) Act 2010.

Implementation remains on track and the 3rd Commencement Order, covering provisions relating to the Crofting Register and consolidation of crofting law, was laid in Parliament on 3 September 2012. The Order is subject to affirmative procedure and was considered, without comment, by the Subordinate Legislation Committee on 18 September. It is expected to be considered by the Rural Affairs, Climate Change and Environment Committee in October and

then by Parliament after the October Recess.

The Order provides for registration provisions to be commenced in 3 stages:
30 October 2012 for the powers to establish the new Register, to make the necessary subordinate legislation and to commence the consolidation provisions;
30 November 2012 for the Register to be publicly available; and
30 November 2013 for introducing the requirement to register croft land subject to a regulatory application.

Richard explained that the provisions requiring registration will also be introduced on 30 November 2012 in relation to croft land voluntarily registered. This would ensure the new Register remains up-to-date, providing legal certainty of croft land entered on the Register.

Subordinate legislation will follow the 3rd Commencement Order, which will include the Register Fees and Rules. The Registers of Scotland had consulted on the application forms for the Crofting Register and a presentation on the Register would be made at the WS Society Crofting Law Conference in Skye on Friday, 21 September.

Discussion:

When the trigger system is introduced, i.e. compulsory mapping triggered by a croft transaction with the CC, will a disputed boundary delay the croft transaction? Yes.

Is there a time limit for objection to a map? Yes, 9 months.

The crofting register doesn't have detailed information on shares in common grazings that are attached to the croft. This is still under discussion and will be an item at the Crofting Law Group conference.

When a crofter buys a croft under the right to buy it doesn't trigger mapping (for entry on the crofting register). This seems to be an omission?. It is under discussion.

7. Residential care home charges and crofting

This was deferred to the next meeting.

8. Consolidation of Crofting Acts

This is a standing item on the agenda until something happens about it.

The Minister for Environment, Paul Wheelhouse, joined the meeting and gave a short introductory talk regarding his new post and responsibility for crofting.

Discussion:

When will the convenor of the CC be appointed? There is disappointment that the CC were not left to choose their own convenor.

A convenor will be appointed very soon now. SG has to follow public appointments procedure. It was felt that as this is the first Crofting Commission it would be helpful to appoint a convenor rather than leave to a new board to choose.

There is concern about absentees being evicted when they may be away for a relatively short, legitimate time.

The distance has been increased from 10 miles to 20 miles to be more flexible. The CC has discretion over the legitimacy of an absence outwith this distance and the power to grant a leave of absence if appropriate.

Dereliction is more of a problem than absenteeism.

The CC are dealing with dereliction as well as long-term absenteeism.

Morayshire and Arran, new crofting areas, need support to activate crofting. SG will encourage the conversion to crofts and will support this. The inclusion of these areas in the crofting counties was to create opportunity. The CC and HIE will work together to help create opportunity.

Thanks to minister for attending the meeting and an open invitation to attend any in the future.

9. AOB

- Croft House Grant Scheme. There appears to be a lack of consistency in approving grant applications and refusals get overturned on appeal. This needs to be a subject for a future meeting.
Action: arrange for a CHGS official to attend a future meeting.
- Concerns over grid connections for micro-renewables.
Action: N. Leask to write a paper for a future meeting.
- Fuel. Islands have a 5p discount on pump prices yet remote mainland areas have the same pump prices but no discount. Also crofters have no discount on bulk purchases (which are common for remote crofts).
Action: Jean Urquart MSP is writing to the UK treasury on this. To be followed up.
- Electronic identification of livestock. The German shepherds are taking the EC to the ECHR regarding infringement of producers' rights. The SCF have supported this and argue that the tags should only have to go in when the animal is leaving the jurisdiction of the keeper at birth.

10. DONM

31 October, evening

Appendix A

Key Dates for CAP reform in Europe

European Parliament

- **3 September** – first exchange of views in the Agri Committee on the proposed amendments to the Direct Payments report
- **17 & 18 Sept, 10 & 11 Oct**, - Agri Committee meetings
- **September – November** - Rapporteurs and other committee members will attempt to reach agreement on as many compromise amendments as possible.
- **5 & 26 November** - the compromise text is expected to be voted on in the Agri Committee.

European Council meetings under the Cyprus Presidency

Agriculture and Fisheries Council meetings will take place on:

- 24-25 September – CAP proposals on the agenda - expected to focus on rural development
- 22-23 October – CAP proposals on the agenda – possibly focussing on finance and control.
- 19-20 November – Presidency hopes to reach agreement on parts of the CAP reform package (known as a partial general approach).
- 17-18 December – 2nd opportunity for reaching a partial general approach if not possible in November.

At this stage it is not clear which aspects of the CAP reform proposals will be dealt with at each Council - detailed agendas will be issued nearer the meetings. In addition to Ag & Fish Councils, the MFF negotiations (including the future CAP budget) are on-going and will be discussed at General Affairs Councils on 24 Sept, 16 Oct, 20 Nov and 11 Dec, and at a special EC meeting on 22/23rd Nov.

Future milestones 2013/2014

The EC is aiming for the new Direct Payments (DP) and Rural Development (RD) regimes to begin on 1 Jan 2014. Most observers, however, expect the timetable to slip and think Jan 2015 is a more realistic start date – the new RD Programme may start even later. Member States have been pressing the EC to set out plans to avoid any funding gap, especially for RD, if the start of the new CAP regime is delayed. Has been some progress and discussions are on-going.

Possible timeline;

- European Budget (including CAP budget) agreed – Spring 2013
- Main CAP reform regulations finalised – Summer 2013
- Commission tables proposed implementing regulations – Summer 2013
- Negotiation phase/Scottish Government consults stakeholders – Autumn/Winter 2013
- EU and National implementing rules adopted – Spring 2014
- Scottish Government finalises new IT payment systems and trains staff
- New CAP regime begins January 2015.