

## **EXECUTIVE NOTE**

### **DRAFT : THE CROFTING (DESIGNATION OF AREAS) (SCOTLAND) ORDER 2010**

#### **Introduction**

1. The above instrument was made in exercise of the powers conferred on Scottish Ministers by section 3A(1)(b) of the Crofters (Scotland) Act 1993, as amended by the Crofting Reform etc. Act 2007. The instrument, for the first time, designates new areas in Scotland, outside of the Crofting Counties defined in the 1993 Act, where new crofts can be created namely: Arran; Bute; Great & Little Cumbrae; the local government area of Highland which lies outside the Crofting Counties; and, the local government area of Moray. The instrument will designate the whole of the area outside the Crofting Counties which lies within the Highlands and Islands Enterprise (HIE) area of operation<sup>1</sup>. The new areas are not part of the Crofting Counties. The instrument is subject to affirmative resolution procedure.

#### **Policy objectives**

2. Section 3A of the Crofters (Scotland) Act 1993, inserted by Section 61 of the Crofting Reform Act 2007, provides the means for new crofts to be created within Scotland. The Crofters Commission may create new crofts on the application of a landowner, either within the crofting counties or within areas outwith, which are designated for that purpose. In addition, within the designated area, it allows the tenant of a holding held under the Small Landholders Acts 1886-1931 to apply to the Commission to have the holding converted to a croft. The landlord's agreement is not required. However, the tenant will require to establish in law that the holding is indeed a Small Landholders Act holding, by obtaining a certificate from the Scottish Land Court, and will be required to pay compensation to the landlord for any change in value by conversion to a croft. Once converted, the tenant, as a crofter will have a statutory right to buy the holding as a croft.

#### **Consultation**

3. The policy proposal was subject to full public consultation between December 2007 and March 2008, including public meetings on Arran and in Grantown on Spey. Respondents to that consultation broadly supported the designation of new areas aligned with the boundaries of Highlands and Islands Enterprise.

4. Some groups sought extension of the Crofting Community Right to Buy (CCRtB) provisions to the designated areas. However, as there are no powers to create Common Grazings outside the Crofting Counties, new crofts in the designated areas will not meet the definition of Crofting Township required for section 71 of the Land Reform (Scotland) Act 2003. If, in due course, recognisable crofting communities become established outwith the Crofting Counties, Ministers may consider whether CCRtB eligibility should be similarly extended.

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<sup>1</sup> The Highlands and Islands Enterprise Area of Operation (Scotland) Order 2001 (No. 126)

## **Financial effects**

5. The Regulations have no direct financial effects on the Scottish Government, local government, business, or the voluntary sector. Small Landholders Act tenants seeking to convert their holdings to crofts will incur costs in obtaining a certificate from the Scottish Land Court and will require to compensate landlords for any change in value by conversion to a croft. However, this is only incurred by a holder choosing to proceed with conversion.

6. New crofts within the designated areas will be eligible for Scotland Rural Development Programme support in the same way as any other agricultural enterprise. Eligibility for support under the Croft House Grant (Scotland) Regulations 2006 will be organised by administrative means. Changes are in train to amend the Crofting Counties Agricultural Grants (Scotland) Scheme 2006 (as amended)<sup>2</sup> to extend the coverage of that scheme to the designated areas. Cost implications for grant schemes, which can be contained within existing allocations, will be dealt with as part of the relevant scheme changes.

7. It was considered whether a Regulatory Impact Assessment should be conducted for the Regulations but as they do not impose any additional burdens, or financial costs, it was not considered necessary to undertake. There are no equality issues as the provisions apply to all who meet the eligibility criteria regardless of race or creed.

Scottish Government Rural Directorate  
5 November 2009

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<sup>2</sup> (2006 No. 24) amended by the Crofting Counties Agricultural Grants (Scotland) Amendment Scheme 2008 (2008 No 58)