



STÒRAS UIBHIST

1 Bornish, South Uist, Western Isles. HS8 5SA

Presentation to the Environment and Rural Affairs Committee

Scottish Parliament

Crofting Reform Bill –Reference Group- 3 March 2010

Submission by Stòras Uibhist (South Uist Community Company)

Presented by Angus MacMillan, Chairman, Stòras Uibhist

Executive Summary

As the largest Community Landowner in Scotland, Stòras Uibhist manages 93,000 acres, including 996 crofts and significant commercial activity, with a resident population of 3000 people. The 849 Members of the company elect Directors to manage the Estate on their behalf.

The company recognises the need highlighted by the Minister to improve governance arrangements for crofting and address the issues of absenteeism, neglect, sublets, right to buy, land speculation and the block to new entrants these cause.

The Crofting Counties are diverse and a one rule fits all scenario creates unnecessary difficulties in administration and application of guidelines for the Crofters Commission.

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1 Introduction

Stòras Uibhist is pleased to be given the opportunity to present to the Reference Group its vision for the future of the crofting system not only in so far as this involves community landowners but also its vision for crofting in general.

We agree with the view of the Minister that there is an urgent need to improve the governance arrangements for crofting and to address the chronic problems of absenteeism, neglect, sublets, right to buy legislation and all activities that encourage speculation in the sale and purchase of croft tenancies. Absolutely fundamental to the reform of crofting legislation is that a system exists which makes croft tenancies available for young people while they are in a position to commit to the future of crofting.

This system should allow for an abundant number of croft tenancies to be available at any given time which will therefore address the supply and demand of croft tenancies. Through a whole series of measures including those described below, the crofting system must allow crofts to be made available to young people hoping to embrace, promote and further the crofting way of life.

There are two distinct, though connected, elements to our presentation:

Firstly – The proposals by Stòras Uibhist for the management and development of the Community Company.

Secondly - Comments on what Stòras Uibhist sees as the barriers to fulfilling its ambitions related to governance matters concerning regulation and administration of the proposed legislation.

2 Background

The purchase of South Uist Estates was completed in December 2006, with the purchase of 93 000 acres for a purchase price of £4.5million. Since that time the company turnover has increased from £300k to £650k. The asset value of the company was £4.6m at the time of purchase. Today the asset value is £11m. The company has reversed previous losses to a break even position, while at the same time investing £100k in crofting and estate improvements in the last year. There are 996 crofts and approximately 850 tenants. The total population of the estate area is approximately 3000, with 849 of the eligible 1900 people registered as voting Members of the Community company

Crofting administration has now been given priority within the Stòras business in addition to which major investment projects are now underway to increase employment opportunities, to reverse population decline and to allow the climate for house building and security for the community.

The company is managed by an executive and a board of directors who are elected from within the total membership of 849.

3 Community ownership, management and development of Stòras Uibhist

In order to deliver the full benefit of community ownership it is necessary to have powers to manage and develop the resources that have been acquired on behalf of the community. This will allow crofting diversification on an individual basis and also on a community basis. Individual examples of crofter diversification would be holiday accommodation, caravan parks, small businesses relating to tourism and industry. Community projects would include the examples that are being progressed at this time such as:

- **Loch Carnan Wind Turbine** - 6,9 MW – Gross cost £ 10.5 M

- **Lochboisdale Port of Entry** - mixed development of commercial, fishing and leisure piers and private and public housing. Gross project cost £ 25.0M

- **Askernish Golf Club** - Restoration of championship quality course

- **MOD related jobs** - Member of Task Force that saved 150 defence jobs.

- **Sporting and fishing** - Income increased by 80% since purchase of estate.

- **Transport infrastructure** - Campaign for improved ferry services including privately operated services for the islands.

- **Housing** - Bring back to use approximately 100 derelict houses that have services of roads, electricity and water.

Investment £80 MILLION AND 200 JOBS.

These projects could only have happened under community ownership. However, further projects, which are equally imaginative and ambitious, can only be achieved if powers over the administration and development of land use are granted to democratically elected and financially sound community owners. Please see appendix A to see the detailed written submission presented to Committee of Inquiry into crofting.

4 Summary of community land ownership proposals

- **Community land ownership of crofting estates is a new reality.**
- **Without powers over land use and land management community economic and social development is likely to be a ‘dead letter’.**
- **Stòras Uibhist believes that crofting tenure is the ‘bed rock’ land use system to be applied in South Uist Estates**
- **Stòras Uibhist wishes to have the powers to encourage crofter diversification within South Uist Estate.**
- **Stòras Uibhist believes that the use of crofting land is not sacrosanct in all instances, particularly on common land.**
- **Stòras Uibhist believes that in order for community self-determination and development to be realised in the manner that the community wishes, powers over land use, land management, and land development ought to be devolved by Scottish Ministers to democratically accountable community owners.**
- **In the interim period before transfer of powers, Stòras Uibhist believes that the Crofters Commission must deal with chronic problems of absenteeism particularly in reference to the new community owned Estates.**
- **Stòras Uibhist believes that where community landownership exists the Crofter Commission’s role would be as a forum for appeal against a decision of the community owner.**
- **Scottish Ministers should make Stòras Uibhist a pilot case in regard of the above.**

5. Governance, regulation and administration

Absenteeism

Stòras Uibhist believes that absenteeism needs to be addressed, not only in the regulation but also in the administration that ensures that the regulation is enacted. This clearly has not been happening in the past and clearly a reformed Crofters Commission needs to be accountable to Scottish Ministers in ensuring that this is addressed. We suggest that absentees should have an opportunity to allow one term of sublet, for a period of not more than ten years, to allow a tenant the opportunity to decide on whether he wishes to return to resume full use of the tenancy.

Sublet

There is a place for sublet in the system, however it can only be on very clearly defined criteria. Only one period of sublet can be permitted for a period of no more than ten years. In the past continuous short term sublets did not allow the sub tenant the opportunity to invest in croft improvements, the result being that fences, drainage and buildings were allowed to regress to such an extent that the unit was eventually worthless for agricultural production or any other use. This system also allowed a tenant continued access to the tenancy without ever committing to the future of the croft or the community.

We feel that our proposal allows the sub tenant sufficient time to get return on the investment in improvements to the croft and therefore ensures that the development plan agreed to at the start of the

sublet agreement is completed. Failure to implement these plans in the first two years of the plan would render the sublet invalid.

Neglect

This matter is more sensitive and needs to be addressed on a case-by-case basis. There are many reasons why cases of neglect might occur, however, prolonged periods of neglect need to be addressed, but always ensuring that the tenants home is never put in jeopardy. Similar guidelines to that for absentees might be appropriate.

Sale of croft tenancies

The sale of croft tenancies on the open market or, indeed, on the 'black' market is becoming a common practice. Generally its purpose is to give a 'cash' gain to the tenant. The seller of the tenancy is generally an individual who has inherited the tenancy but has no intention of occupying the croft or 'working' it. This has created a 'market' in croft tenancies which has had a deleterious effect on crofting townships and militates against the community nature of crofting. We believe that this practice should be outlawed. Any sale should require demonstration of the fixed assets being compensated for in the monetary transaction.

Purchase of croft tenancies

Similarly, the practice of purchasing croft tenancies, whether on the open market or the 'black' market should also be outlawed. This practice has meant in reality that those with the greatest 'purchasing' power 'squeeze out' any possibility of local people, particularly young people, from entering into crofting by a route other than by inheritance. Those who, under the present system, are required by the Crofters Commission to prepare and enact a development plan in order to be permitted to obtain a tenancy which they have purchased are rarely, if ever, monitored to see whether or not the croft plan has been put into effect. Further, even when the Commission is aware these plans are not being implemented, there is no mechanism to address this.

Right to Buy

The 'Right to Buy' legislation has proved to be one of the most destructive pieces of legislation to come to crofting. This creates the reality of fragmenting the whole system that crofting legislation generally is designed to protect. Individual private landlords feel that by buying the tenancy they are above crofting legislation and are not, therefore, part of the crofting community. That, in addition to most often being absentee, the private landlord will in the fullness of time ensure that there is no activity on that croft and future generations will be prevented from accessing a house site and engaging in agricultural activity or, indeed, other forms of activity as previously described. Crofting is a system of tenure or it is nothing.

This law must be reversed to ensure the future of crofting. Proposals to give equal rights to 'owner occupier' crofters are a Trojan Horse for the final destruction of crofting tenure.

Register of Crofts

It is not believed that the Register of Crofts is a matter of paramount importance at this time. It is suggested that the registration of crofts is completed as and when it is necessary for tenants, landowners or statutory bodies. In the fullness of time this will achieve the desired effect of having crofts mapped to a standard suitable for land registration. The cost of this should be borne by the applicant requesting change to the tenancy.

Multiple Tenancies

To reflect the changing production methods in affluent areas of the crofting communities, multiple tenancies should be permitted. However, when these tenancies are due for assignation, provision should be made to break up the multiple tenancies into individual crofts. It is further suggested that where multiple tenancies are in place, primary residence house sites are made available on the individual croft holdings.

6. Conclusions to the above

6.1 Community landlords should be given the powers to manage and develop the assets which they own

6.2 Crofting legislation relating to governance should be amended as stated above to ensure that croft tenancies are made available to tenants who wish to use and develop the crofts. The release of these crofts will ensure that a pool of crofts is made available ensuring that agriculture production, housing, associated economic development and population is retained in the Crofting Counties. It is by making crofts available that inflated market influences are removed from the transactions.

APPENDIX A

Stòras Uibhist submission to the Environment and Rural Affairs Committee

Background

The process of working towards the community purchase, management, and development of South Uist Estates began in the Spring of 2003. The South Uist Steering Group and, subsequently, the community company, Stòras Uibhist, spent over three years identifying individual development projects within the context of the overall project which was the purchase, management, and development of South Uist Estates. Both of these groups built on the work of the Uist 2000 group which was set up to examine the possibilities of sustainable economic development in the aftermath of cut-backs at the MOD.

A great deal of time and effort, along with a considerable amount of expertise, had gone into the costing of the whole project and into identifying a 'staged approach' to economic and social development within the Estate area. Although this work had been carried out principally by the community representatives on the Steering Group and by elected Directors of the Community Company, it had also involved considerable input from officials from a variety of agencies.

The proposal for the community to own, manage, and develop the Estate received the overwhelming endorsement of the community and received a parallel endorsement from the members of the crofting community who were consulted in a similar manner to the community.

A funding package was agreed with HIE Community Land Unit, BIG Lottery, and arrangements were put in place to cover cash flow for the new owner with the Royal Bank of Scotland.

In December 2006 the community interest company Sealladh na Beinne Moire assumed ownership of South Uist Estates Ltd. and all associated and subsidiary companies on behalf of the local community, who can become members of the new company. The membership of Sealladh na Beinne Moire elected a board of directors for the company, by secret ballot, before the purchase took place and the company now manages the estate area under the trading name of Stòras Uibhist. The fact that 93% of the land assets of South Uist Estates was under crofting tenure prompted the sale of the Estate by its owners and, indeed, proved to be the strongest bargaining counter in the negotiations which resulted in the sale price being significantly lower than the owner's valuation and also significantly lower than the valuation of the community.

Although the sale was by mutual agreement, it was prompted by the awareness amongst both parties of several factors, both 'negative' and 'positive', which meant that the Estate had to be sold as one unit. Amongst these was the awareness that land reform legislation could lead to the fragmentation of the Estate into much smaller units with detrimental effects to the sporting integrity and development potential of the whole. Overwhelmingly, though, it was 'positive' factors that determined the nature of the sale - sustainable economic development for the whole community could only be built upon a viable Estate involving all of its component parts.

It is pertinent to note that whereas the previous owners would refer to South Uist Estates as a 'sporting' Estate, the new owners, Stòras Uibhist, refer to the Estate as a 'crofting' Estate with a variety of other assets, including 'sporting'. Stòras Uibhist see the crofting element of the Estate's business as being one of the core strands of its developmental aims. This is not simply because, to some extent at least, all of its intended major projects involve crofters and croft land but because the promotion and development of crofting itself lies at the heart of the community ownership and development of South Uist Estates.

Stòras Uibhist – Community Owner and Manager

The Directors of Stòras Uibhist were always aware that community ownership of the assets of South Uist Estates meant that, in the first instance, the Community Company took over the management of the existing assets of the Estate and inherited the privileges, burdens, and responsibilities of ownership in the traditional sense. In so far as this concerned crofting, the Directors have been acutely aware that 93% of the land area of the Estate was under crofting tenure with 996 crofts and 850 crofting tenants and something like 35 townships. The Directors were aware, given these facts, that they had a responsibility to bring the crofting element of the Estate's activities under effective administration within the current legislation and they have also sought to resolve chronic difficulties. Already this has had a marked effect on confidence within the crofting community. The Directors also brought the whole of the Estate's business under prudent financial administration. Both of these actions were considered by the Directors to be the initial priorities of the Company and were the necessary foundation to be put in place before individual developments could be contemplated.

With regard to the effective administration of crofting, Stòras Uibhist is perceived by the crofting community on the Estate, on the one hand, as being a better 'landlord' than what went before but still a 'landlord' in the traditional sense while, on the other hand, there are expectations amongst members of the crofting community on the Estate that community ownership means that all problems can be resolved by the community company. In many instances the Directors have discovered that problems have been caused by the legacy of wrong decisions taken in the past which the Community Company is powerless to overturn. The apparent reluctance of the Crofters Commission to effectively administer all areas of its responsibilities is another cause of frustration to the Community Company. Finally, the effects of national legislation in crofting have been detrimental to the crofting community on the Estate and to the development of the Estate as an integrated unit.

The Directors of Stòras Uibhist observe that much of current crofting legislation grew out of a historical period of enmity between land owners and land users and consequently parts of it may be ill-suited to the nature of community ownership and, above all, ill suited to the community's desire to develop its own assets. One of the dangers in community land ownership is that the Community Owner, albeit with Directors elected by the community, will be seen to be nothing other than a 'traditional' landowner - perhaps a more efficient administrator than what went before, but no more than that. Legislative rights, many of which were justly put in place, are and will increasingly become 'constraints' to community development leading to animosity and, indeed, ever increasing animosity between community owners, land users, and non land-using members of the community. Community owners would be likely to find themselves powerless to bring about necessary changes for community development benefit even although these may enjoy the support of the majority of the members of the community. In such a scenario, crofter 'engagement' and community 'engagement' in the developmental process is a 'dead letter' and development opportunities are lost.

The Community as Owner, Manager and Developer of its Own Assets

People form communities and communities have certain characteristics. They have an internal 'goal' – the well being of all their members. They have a common life, shared values, and similar motives. They have a 'shared meaning' about things. The Community Company, which is legally the owner and manager of the community owned asset, is an 'association' whose sole aim is to promote and develop the 'well-being' of the community. The Community Owner must be democratically accountable to those who choose to become members of the Company but 'democratic accountability' does not mean that everyone gets what they want all of the time but rather that the predominant wishes of the members of the community are effected in a reasonable manner. As well as being an effective manager of community owned assets, it must be an effective developer of those assets.

Stòras Uibhist, as the community owner of South Uist Estates, considers that its role in relation to the Crofting Community and the Crofting Communities on the Estate is to manage crofting and to

promote the development of crofting but it considers that it should be permitted to do this according to the local conditions that prevail within the Estate.

The Company believes that Crofting remains the ‘bed rock’ land use method for the Estate at present and in the future. This is not just for environmental and agricultural reasons but also for social reasons. Crofting has kept the people on the land.

The Company recognizes that crofting practices have changed and it also recognizes that there are many different elements which have led to the weakening of the Crofting Community and Crofting Communities within the Estate. Amongst these is absenteeism, the sale of croft tenancies on the ‘open’ or ‘private’ market, the holding of multiple tenancies in different parts of the Estate, the extreme use of family assignments, the individual purchase of croft land, unofficial land use arrangements between crofters, the reduction in the use of hill pasture.

Community ownership of the land is tied to Community Self Determination and to Community Development. Consequently, Stòras Uibhist believes that powers over land use arrangements should be given to democratically accountable community companies. Community land owners should be given the powers to veto the purchase of crofts on land owned by them, to veto the sale of croft tenancies, and to decide the appropriateness of croft assignments. They should be given the powers to develop crofting for the benefit of crofters. They should be given powers over the effective administration of township common lands and should be given powers to decide the effective use of common lands for community benefit. Likewise, they should be given powers over crofter diversification to enable crofters to enter the tourism market.

The current legislation in relation to crofting, coupled with an ineffective administrative structure has led to many of the abuses which presently afflict crofting. Community land ownership will not lead to community self determination and successful community development unless the community itself can decide what constitutes appropriate land use within its area.

Without having powers over land use and the development of the land assets, community land owners will almost certainly be thwarted in the realisation of their development projects with the consequent effects in their attempts to reverse depopulation and decline and to create sustainable communities.

Special Status of Community Land Owners within the Crofting Counties

While it is clearly the case that the use of universally applicable legislation brought rights and benefits to crofters, it is now questionable whether such a system will benefit crofters, crofting, and communities within the crofting counties in the future given the variety of types of ownership that now exist. Stòras Uibhist believes that greater scope must be given to community landowners to develop crofting and appropriate land use. This can only be achieved by the conferral by Scottish ministers of special status to community landowners where it can be shown that the landowner is commercially competent and democratically accountable. Appeal against a decision of a community landowner by an individual crofter or a township can be made to Scottish ministers.

Interim Period

It is clear that before such a change could be made that the Crofters Commission would have to deal with the outstanding issues that they can deal with under current legislation and this especially in the case of community landowners. This is principally the problem of absenteeism. Crofts taken from absentees in the interim period should be returned to the Community landowner for redistribution.