

Land Reform Bill – response to call for views

Part 1 of the Bill

General Purpose in Relation to Large Landholdings

1. Do you agree that there is a need for further land reform to address issues around large landholdings in Scotland?

We welcome regular community engagement between the landowner of large estates and the surrounding local residents. We are aware that most landowners in Scotland already engage with local residents, although there have been prominent cases where community engagement was not forthcoming when corporate or charitable bodies purchased estates, and we hope that the Land Reform Bill will promote better relationships between some landowners and the local community. Overall, though, there is a lack of evidence to suggest that large scale landholdings have a detrimental impact and so the need for significant overhaul of regulations seems excessive. The focus should be on the specific cases, but we also understand that this would be difficult to administer or navigate without new regulations being passed. Many rural communities rely on tourists for their businesses. Shoots take place over the autumn/winter when there is less tourism, so this provides a much-needed boost to the rural economy during these quieter months. If the land use is not suitable for activities that encourage tourism then it may have a detrimental impact on employment in the area given that the larger estates tend to be the more significant employers in rural Scotland.

2. Will the proposals in this Bill fulfil the Scottish Government's objectives in relation to land reform?

The objective of the bill aims to bring about “a Scotland with a strong and dynamic relationship between its land and people, where all land contributes to a modern, sustainable and successful country, supports a just transition to net zero, and where rights and responsibilities in relation to land and its natural capital are fully recognised and fulfilled”.

Difficult to say with certainty. The qualifying land only accounts for approximately 40% of Scotland and how will this bill support the transition to net zero? By far the best way to achieve any collaborative goal is by incentivisation. The waving of a stick will ensure that the wedge that has been driven in between the Scottish Government and our rural colleagues and landowners will be buried further. Will the Scottish Government begin forcing the sale of large landholdings to natural capital investors to plant the 18,000 Ha of trees required to meet these targets? Will tree-planting on these estates meet the sustainable development aims for the community? Not all areas are suitable for tree planting, as we have seen recently on a prominent and high-profile estate in the Highlands.

It is interesting to note current Scottish property market research by Strutt & Parker ([2024-02-12_UK_Scottish-Estates-Market-Review_Mar14_final_WEB_spreads.pdf](#))

struttandparker.com) It shows that of the 41 estates marketed for sale in 2023 totalling 68,000 hectares, 23 estates were sold (56%) totalling 38,000 hectares, three estates in excess of £20m and two estates between £10m and £20m were sold for natural capital investment. Off-market sales of estates in 2023 sat at 56%, which is much higher than other property market sectors. The majority of buyers were UK based (84%) and 16% were overseas investors. 70% of buyers were individuals/families and 30% were entities (funds, charities, corporate bodies, etc). It can be the “entity” element that becomes an issue as there can be an enormous knowledge gap as to how to run an estate sustainably and how to integrate with local communities. This may be where the Scottish Government needs to channel efforts when it comes to ensuring a satisfactory level of compliance.

3. Do you support the proposal that the Scottish Ministers may, by regulations, impose obligations on landowners to promote community engagement in relation to large landholdings?

The imposition of obligations suggests that there is a landscape scale issue of community engagement across Scotland. This is not the case. Specific estates may be responsible for the majority of the lack of engagement and to sweep clean all of the good work that the majority of landowners commit to, replacing it with regulations and obligations, seems disproportionate. Not enough information is supplied to be able to form a considered opinion on whether the Scottish Government proposals can be supported in full at this stage. Community councils and local authorities should play a greater role in these processes.

4. In principle, do you agree that owners of large landholdings should have a legal duty to consult on and publish land management plans?

The key here is to encourage good relations between landholdings and the surrounding community. We do not support a blanket legal duty to consult on land management plans but engagement with the community in some format could be required as part of the process. Transparency and understanding will be an important part of the process. With approximately 1,125 rural estates in Scotland covering around 4.1 million hectares, ([Rural Estates Drive Wellbeing - BiGGAR Economics](#)) there would be a large number of land management plans to dissect and administer. Given the figure that 40% of private estates are over 3,000 Ha, this would still equate to around 450 land management plans to be reviewed and recorded by the government body allocated to obtain this information and to regulate and sanction where deemed necessary. If the threshold is 1,000 hectares, this would be a much larger and time-consuming exercise in administration. It is also a concern that local communities may attempt to suffocate perfectly legitimate and sustainable plans should they not be in agreement, over-stretching their boundaries as interested parties, halting progression and wasting vital funds that would otherwise be utilised in the community and on the estate.

5. Do you support the process for investigating alleged breaches of community engagement requirements for large landowners set out in the Bill? Do you support the proposed level of penalty for contravention?

No. Once again the general landowner is threatened with a fine and life seemingly made much harder than it already is for an estate to run well. In most Scottish Government consultations there seems to be absolute clarity on what punishment might be

administered to alleged offenders yet the actual proposals that are meant to be set out to help those concerned are generally lacking in evidence and detail. Organisations and landowners find it extremely difficult to support proposed legislation when there are numerous grey areas and key detail missing. Scottish Government need to concentrate on furnishing stakeholders with the correct detail to begin with rather than what will happen to them should they fail to meet certain undefined scenarios. We also lack any detail of how this will be policed and what thresholds are unacceptable. Will it be the Land and Communities Commissioner that has the final say on who is fined? Will these fines be levied for repeated breaches of community engagement requirements? Will this money be used to fund future resources required to administer the land management plans and the role of the L & C Commissioner and their office.

Section 2

6. Do you support in principle strengthening community bodies' opportunity to buy large landholdings?

Yes. We have no objections to community bodies purchasing large areas of land. What we would insist on is that any buyer is subject to the same scrutiny across the board. Given the example scenario in the Cabinet Secretary Mairi Gougeon's letter ([cabsecralriproviding-further-information-following-informal-briefing-on-the-land-reform-bill-14-may.pdf](https://www.parliament.scot/cabsecralriproviding-further-information-following-informal-briefing-on-the-land-reform-bill-14-may.pdf)), the community body wishes to purchase 1 hectare of land which includes 2 cottages from a 1500 hectare estate, which is a very small lot and begs the question could this not be compulsorily purchased using the community right to buy scheme (CRTB). From 26 April 2020, under the CRTB scheme (Part 2 of the Land Reform (Scotland) Act 2023), if a legally set up community group identifies land that is suitable for further sustainable development it can make an application to buy it or nominate a third party to buy it. The owner's consent would not be required if it is proven that the land is being misused or is greatly undervalued in some way, and that the community could significantly enhance its use. An appeal process should still be available to the owner.

A community buy-out would need to take into consideration sustainability of the community and have regard for objectives such as economic development, repopulation and maintaining the population at a desired level, regeneration, public health, social wellbeing and environmental well-being (section 56(12) of the Land Reform (Scotland) Act 2016).

In 2023, SLE commissioned research to find out how much rural estates contribute to current wellbeing and how these estates help maintain the conditions needed to support the wellbeing of future generations.

The results from the study are a very clear indicator that rural estates contribute immensely to the economy, by generating £2.4 billion GVA/year for the Scottish economy and by supporting more than 56,000 jobs. Around 80% of these jobs are in rural areas, implying that rural estates support around 1 in 10 of all rural jobs. These figures cannot be ignored and should be considered carefully during the passage of this bill. The Scottish Government have stated that they wish to retain and even increase rural populations, so ScotGov need to design this legislation with this in mind.

If the sale of all large landholdings had to go through a procedure of community right to buy, significant delays of over a month could result. All community bodies have to be informed

and given the chance to note interest in buying the landholding. Further delays will be incurred until Scottish Ministers decide on these community buy-out applications. If then given the go-ahead, the community body would then be given the first opportunity to buy the land. Quite an onerous procedure, which would stall rural land purchases significantly and create market uncertainty. Timescale is another issue. An interested party, such as a local community, will need much longer to prepare a case for a buy-out and when land enters the market for sale it is often purchased swiftly by a wealthy entity. Notice might be given to communities prior to the land reaching open market but any regulations should not have negative connotations on those individuals who simply wish to purchase a small piece of land either.

- If you answered “yes”, does Section 2 of the Bill go about this in the right way to address the Government’s aims?

See above

- Do you think that 1,000 hectares is an appropriate threshold?

No.

According to the Registers of Scotland, around 40% of Scottish land is made up of landholdings of over 3,000 hectares. ([The Land Reform \(Scotland\) Bill: What do the proposals for large landholdings look like? – SPICe Spotlight | Solas air SPICe \(spice-spotlight.scot\)](#)). 1,000 Hectares is an arbitrary figure with no clear benefit whatsoever to those above or below that figure.

Family-owned farms of over 1,000 ha will not be exempt from this bill. 62% of respondents to the consultation disagreed to an exemption for family farms. This was seen as a potential loophole to respondents. Further thought should be given to what constitutes a “family farm” during stage 2 of the bill.

Section 4

7. Do you, in principle, approve of allowing the Scottish Ministers to make a lotting decision in relation to sales of large landholdings?

No, this will serve to create a more bureaucratic system of selling a single large holding or composite large holding (land owned by connected parties). Lotting, if utilised, should be delivered by a professional service and not Scottish Ministers as there is a clear skillset required. If ministers were to be left with the decision, land sales could be delayed and possibly prohibited, if a decision goes against the seller. This is not the role of a Scottish Minister.

- If so, do you agree that 1000 hectares is an appropriate threshold?

No, see above.

8. Is the proposed process for making a lotting decision appropriate and workable?

No. This process needs much more clarity and must have the full engagement of the landowner. Will the landowner have a say in the lotting process and what timescales are set for Ministers or the LCC to make the relevant decisions relating to that land?

9. Do the Scottish Government's proposals for a "transfer test" adequately take the public interest into account?

No, this does not appear to take into consideration the landowners' interests. Clarity must be gained where there is a "public interest" test, and it must be understood what this actually means and consists of.

Please also see previous comments under 6. Local community councils should be part of this process.

Section 6

10. Do you support the creation of the new role of Land and Communities Commissioner?

No, the powers given to the Land and Communities Commissioner go way beyond the powers given to other commissioners. Could these powers be under the umbrella of the Scottish Land Commission, rather than setting up a new role and office? Professional qualifications and experience in the sector would be required in this role.

- **If so, are their responsibilities under the Bill adequate/appropriate?**

No, see above.

Part 2 of the Bill

Section 7

11. Are you satisfied with the broad duty Section 7 of the Bill places on the Scottish Ministers to develop a model lease for environmental purposes, including the definition of "environmental purposes" set out in Section 7?

To be satisfied, many of the proposed regulations would have to be clarified. What is sustainable and regenerative agriculture? Why would a tenancy related to an agricultural holding not be classed as such if it was less than 50% agricultural? The Land Management Tenancy (LMT) could work, providing that it is designed and implemented well.

Stakeholder engagement should be mandatory when deciding the model lease for "environmental purposes" – which has a very broad definition under section 7, page 28 of the bill.

Sections 8 and 9

12. Do you agree with the provisions in the Bill extending certain rights to small landholders?

There are many positives to the extending of certain rights to small landholders and such changes will ensure that this legislation is contemporary and relevant. We have no real issues in this section.

13. Do you agree that the Tenant Farming Commissioner's functions should be extended to include small landholders?

Operating in this way may well streamline the process and so could be a good idea. An updated Code of Practice may need to be considered with clear stakeholder engagement if the Tenant Farmers Commissioner's functions are extended in this way. Will this have

negative implications for crofters? It should be ensured that the TFC has the relevant experience in order to serve effectively in this role.

Section 10

14. Do you agree with repealing Section 99 of the Land Reform (Scotland) Act 2016, and with giving the Scottish Ministers the power to make regulations which modify the requirement for tenants to register their interest in exercising their pre-emptive right to buy?

This seems like an appropriate step and the registering of an interest, along with a plan, may be helpful. The Scottish Government may consider the cost of the creation of a plan (for purposes of clarity on both sides) as this is a factor that may put off some tenants seeking to register an interest if the landholding is not a significant one in size or value. A plan could be submitted by either party and negotiated.

Sections 11 to 13

15. Do you agree with the changes to resumption proposed in the Bill?

Scottish Land and Estates have undertaken considerable work in this area and the SCA fully lends its support to their findings in their consultation response. It serves little purpose to repeat their extensive work. Resumption should be revisited and engagement with stakeholders is critical prior to stage 2.

Section 14

16. Do you agree with the proposed changes to compensation for improvements for tenant farmers?

Scottish Land and Estates have undertaken considerable work in this area and the SCA fully lends its support to their findings in their consultation response. It serves little purpose to repeat their extensive work.

17. Do you believe that the provisions will better enable tenant farmers to engage in sustainable and regenerative agriculture?

Please provide a definition of what this is. It is difficult to comment on something that is not defined.

Sections 15 to 19

18. Do you agree with the proposed changes in relation to diversification on tenant farms?

Any diversification should be initiated and agreed by the tenant and enforced diversification must be avoided. We understand that progression and diversification in agriculture is largely unavoidable, and often beneficial, but this should be on the terms of the tenant and not enforced by regulation.

19. Do you believe these provisions will better enable tenant farmers to engage in sustainable and regenerative agriculture?

Refer to previous comments relating to sustainable and regenerative agriculture.

Section 20

20. Do you agree with the proposed changes to compensation for game damage for agricultural tenants?

This only comes into effect if the tenant farmer doesn't have the right to shoot game and deer. A farmer would be expected to utilise their right to shoot deer, for instance, to prevent damage to crops. This right should be exercised prior to seeking compensation from a landlord or other source. Damage could be carried out by a number of wild animals and this section was not fully consulted on originally, and so there is some detail lacking.

Section 21

21. Do you agree with the proposed standard claim procedure for compensation at the end of a tenancy?

A streamlined and easy to navigate claims procedure would be welcomed.

22. Do you agree with granting the Scottish Ministers power to apply the standard claim procedure to any relevant type of compensation?

Only when parties are not in agreement.

Section 22

23. Do you agree that interest should be payable on outstanding compensation claims?

24. Do you agree with the rate of interest set out in the Bill?

Claims should be encouraged to be settled between involved parties and the bill should not cut across already negotiated agreements.

Sections 23 to 25

25. Do you agree with the changes to rent reviews proposed in the Bill?

Rent agreements should be negotiated between relevant parties and, where possible remain the case.

26. Do you agree with the Scottish Ministers being given powers to make provision in relation to matters that are to be taken into account by the Land Court when determining the rent for a holding?

Sections 26 and 27

27. Do you agree with the proposed changes to the rules of good estate management?

Difficult to agree until previously mentioned definitions are clarified. Landowners and tenants can not agree on their personal obligations without detailed information forming new legislation.

28. Do you agree with the proposed changes to the rules of good husbandry?

Difficult to agree until previously mentioned definitions are clarified. Landowners and tenants cannot agree on their personal obligations without detailed information forming new legislation.

General questions

Links to the Agriculture and Rural Communities (Scotland) Bill

29. Are the changes proposed in the Land Reform (Scotland) Bill sufficient to enable tenant farmers to engage in sustainable and regenerative agriculture, and to allow them to take part in schemes and programmes under any new agricultural policy?

Refer to previous comments.

Fairness and checks and balances

30. Do you consider the Bill strikes a balance between the competing interests and rights of landowners, local communities, landlords and tenants, alongside the wider public interest?

No, not yet. Much is to be clarified and discussed through the committee stages before support can be offered in full.

Tackling the Climate and Biodiversity Crises

31. In your view, does the Bill make adequate provision for the role that land might play in delivering a just transition to net zero and tackling the biodiversity crisis?

No. The Bill offers no real explanation on how it will tangibly contribute towards Net Zero targets or the biodiversity crisis. Much work is required, and many areas are to be clarified before this bill can state that it adequately delivers what is intended.