

To: Scottish Affairs Committee

Evidence from Community Land Scotland to - Inquiry into land reform

Community Land Scotland welcomes the interest of the Scottish Affairs Committee (SAC) in land reform, and particularly the ability of the Committee to explore key reserved issues.

Community Land Scotland thinks the work done on the Crown Estate last year by the SAC was very valuable, and hopes the land reform work can be as valuable in setting out a comprehensive picture of what is needed to bring about further land reform and changed patterns of land ownership.

Community Land Scotland believes the paper the Committee published to stimulate discussion “432:50 – toward a comprehensive land reform agenda” represents a comprehensive summary of the issues affecting the issue of land reform in Scotland.

Scotland has the most concentrated land ownership patterns in Europe and much of rest of world and this acts against achieving greater social justice and the progressive realisation of human rights. The ownership patterns in Scotland should be regarded to be unacceptable and any matters which serve to re-enforce these patterns of ownership require to be addressed with a view to driving necessary change. We hope the Committee will recognise this in their conclusions.

It appears increasingly clear that land acquisition and the on-going holding of land is, for many owners, simply a vehicle for optimising tax advantages and accessing beneficial public subsidies. This raises fundamental questions and concerns about the relationship between such owners and the interests of communities, and the best land uses for communities to build a sustainable future.

If it does nothing else, we believe that the SAC exploring, in particular, the issues around the company structures used by private landowners and what advantages they offer them, and the exploration of the tax advantages, grants and subsidies they can access, simply by virtue of their ownership, will be worthwhile in the interests of transparency, public understanding and accountability. CLS can offer no expertise on the tax and company structure issues, as they are beyond our experience, but would very much welcome the transparency and wider public understanding this inquiry can offer and provides a welcome opportunity to turn prejudices often heard from private landed interests, that it is community land owners that are hugely subsidised, on their heads.

The personal tax and other advantages of land ownership, together with land ownership being seen as an easy vehicle for such advantages, may help inflate land prices and this would make it more difficult for communities or smaller individuals to access land. It would be good if the Committee could look into the way the current circumstances and ways of accessing benefits may contribute to inflating land prices.

The question of human rights and land should also be considered by the Committee, given a range of UK government obligations under various international agreements to advance human rights. In the context of land ownership the European Convention of Human Rights (ECHR) is often cited by existing private owners as something which it is at least implied, provides them with total protection against any required change in ownership as that would be to breach their human rights under ECHR and that would be illegal. Such an interpretation can imbue beliefs within the public and government policy community that this is in fact the case and that ECHR is effectively a block to further land reform. Given the origins of ECHR in the post war era and as an international agreement seeking to prevent a repeat of expropriation of property from oppressed minorities by brutal regimes, it may

appear bizarre that it is now utilised to seek to protect the property interests of a few generally wealthy private owners of vast tracts of land in Scotland against what might be regarded as the wider public interest of the community at large. In fact, Community Land Scotland believe ECHR is not an automatic block to further reform, including compulsory measures, provided those measures are exercised in the public interest and are proportionate. However, beyond this, we believe there are other human rights obligations that would provide the impetus and reasoning for further land reform, not the reason to halt its progress. We believe the Scottish Affairs Committee could helpfully take evidence on these issues and provide useful insights, clarifications and balance on the issues around land reform and human rights and help better inform public debate on the issues.

In addition to the issues mentioned above it would be particularly valuable if the SAC were to hear evidence about the application of State Aid rules as they relate to community purchases of forest land in particular. Current interpretations within Scotland are impeding community purchases and it is not clear this is the purpose of the State Aid requirements and whether interpretations in Scotland are more restrictive than necessary and as interpreted elsewhere in the UK.

The issues already identified by the Committee in relation to the Crown Estate remain relevant and we encourage the committee to retain an interest in these matters.

The SAC focussing on these issues, in particular, will be very helpful in developing a comprehensive overview of where the different elements of land reform need to fit together and where responsibility for each dimension lays. Community Land Scotland believes that more action to deliver further land reform is needed across a range of complementary fronts and lies across the responsibilities of the UK and Scottish Governments.

We have argued that the Scottish Parliament should grant extended community rights to buy land, even when there is not a willing seller, in order to advance the cause of land reform and more community ownership. To assist this process we have argued for a 'land agency' to be established with appropriate duties and powers. An Executive Summary and the full evidence we have submitted to the Land Reform Review Group currently considering the issues, is attached.

We look forward to co-operating with the Committee in its work on land reform.

Yours sincerely

David Cameron
Chairman
Community Land Scotland

Response to questions posed by the Scottish Affairs Committee

How does Scotland compare to other countries in terms of the pattern of land ownership?

Scotland has a pattern of ownership which concentrates that ownership in very few hands relative to other countries. There is considerable academic research and evidence available to exemplify this.

What are the benefits and disadvantages of the current pattern of land ownership, and to what extent is this pattern sustained and reinforced by subsidy and taxation arrangements?

The disadvantages of current ownership patterns is that they concentrate effective land use decisions in very few hands; the bounty of the land is shared between very few people, concentrating wealth and privilege, and denying communities and a much wider range of individuals a real stake in the land; opportunity to state support for enterprises and land uses is limited unnecessarily to relatively few people, enhancing their economic opportunity, while limiting economic opportunity for others, eg, current renewables opportunities; expertise in land management is limited to far fewer people than would otherwise be the case if land was more equitably owned. Ownership of such expertise is sometime stated as a reason not to change current ownership patterns but it has been shown that community owners can quickly acquire the necessary skills.

Is the current system of land tenure in Scotland the most efficient model for food security?

While by one economic view it might be argued that current ownership is an 'efficient' way of managing wide areas of land, by another view, it is inefficient in subjecting too much land use to the decisions of a few and limiting participation and innovation in land use to far too few people. It could be argued that incentives for investment in food production are limited by the fact that there are comparatively few owners who have sufficient stake in the land to make investments that would be more productive than the status quo in food security.

In particular, is the current land ownership pattern contributing to, or inhibiting, economic and community development? Is it socially just?

The land ownership patterns in Scotland just simply cannot be said to be socially just or to contribute to the achievement of greater social justice. In the experience of Community Land Scotland land ownership patterns have been a significant contributor to limiting economic opportunity and development leading to decline in many economically fragile parts of Scotland. Community ownership of land is significantly motivated by a desire to turn round economic fortunes and bring about greater economic and community development. A recent study by SRUC points to the fact that not all private family estate owners see themselves as having a responsibility toward economic and social development.

Given mounting political interest in, or commitment to, a programme of land reform in Scotland, what form should this programme take?

Four components are required for progress. Willing communities (which may need to be encouraged through access to information about the potential and success of community ownership through an active information promotion programme); a legal framework which further empowers communities with appropriate rights to purchase when that is in the public interest and even where there may not be a willing seller (see detailed evidence on this to the Land Reform Review Group, attached); public support to communities by way of finance to assist communities in land purchases and for initial development purposes through a continuing and appropriately funded Land Fund; technical support for communities to access legal and financial and business development support, such as is provided by the Big Lottery and Highlands and Islands Enterprise currently.

What sort of subsidies and grants are available to landed estate owners in Scotland? What are the advantages and disadvantages of the subsidy regime? In particular, are support payments being capitalized into land values and making these higher than they otherwise would be?

There would appear to be a wide range of support elements for private landed owners, some of which are not accessible by community owners. The subsidy regime would appear to have the effect of drawing people into land ownership simply as a means of accessing such advantages and without a basic commitment to the land and its management and development in the interest of the communities affected. We are not expert enough to know that land values are inflated by current arrangements, although we strongly suspect that to be the case. This is where the Scottish Affairs Committee can contribute important insights through the taking of evidence.

Within the current arrangements for agriculture and forestry it is difficult to imagine a regime that does not have subsidy elements. Perhaps the key point is not the subsidy per se, but the way in which access and ownership of land currently opens up opportunity for a small number of already wealthy people, thus further concentrating wealth and simultaneously limiting or denying opportunity for wider benefit. Under arrangements which saw wider community and more diverse private ownership the benefits of the subsidies would be much more widely shared, supporting more people to enjoy improved lives.

The Committee should be clear that community owners can also access certain grants (eg, forestry, SRDP), but a crucial difference is that this supports community and wider public benefits as community owners are non-profit distributing and all assets are collectively owned by the community, not by private individuals. Any increases in land values are not realisable as they assets are 'locked in' for community benefit.

How does the tax regime affect the way in which land is owned in Scotland? For instance, does it offer landed estate owners the opportunity to minimize the tax they pay, thereby increasing the value of land, adding to speculative interest (on the part of those looking for ways to minimize or avoid tax) and making it less likely that it will be made available to others?

The evidence is that there is a large industry which is focused on supporting existing private owners to minimise tax liabilities, while optimising payments from the public purse. This industry is open in its marketing of its services and of land on the tax and other benefits available to those wealthy enough to purchase. This is believed to contribute to raising the

value of land, increasing speculative interest and making it less likely it will be available to others.

We believe a key question for the Committee to consider is whether the current tax arrangements serve achieving a greater diversity of land ownership in Scotland, and to consider what changes to personal and company taxation arrangements would be most likely to secure the greater diversity in ownership that is needed in Scotland. Some would regard it as particularly offensive that land in Scotland is held in offshore arrangements which might appear designed for no other purpose than to minimise the liabilities to the UK that most other taxpayers have to bear. To the extent that this may be held to be the case, then such arrangements for holding land in Scotland should be outlawed with the potential sanction of the forfeiture of land for those not prepared to operate within the UK's jurisdiction for tax purposes.

How easy is it for communities in Scotland to take ownership of land and other assets? Should it be made easier in the light of the substantial achievements of existing community ownership groups?

Our evidence to the Land Reform Review Group (attached) set out a wide range of ways in which the process of achieving more community ownership could be made easier. We firmly advocate that the process needs to be made easier if any further significant progress is to be made.

How easy is it for tenant farmers in Scotland to buy their farms? Should they be granted an absolute right to buy? Would such a right be compatible with human rights conventions and declarations?

Such a right would not be incompatible with human rights obligations in our view, provided it served the wider public interest and was proportionate in offering compensation to existing owners. It is principally for tenant farmers to make their case for such a right, but Community Land Scotland members already deal daily with crofting tenants who already have that right, in addition to much more significant protection for their tenancies than tenant farmers enjoy. If there is any concern about a tenant's right to buy it is not so much in that right existing or being exercised, but in protecting the wider public interest from subsequent sales and a pattern of wealthy individuals snapping up and aggregating farm interests.

Is there a case for establishing a Land Agency to facilitate both the expansion of community ownership and the creation of new, especially "starter", tenancies on land acquired for this purpose?

We strongly advocate that a land agency has an important part to play in facilitating the achievement of more transfers of land into community ownership. Our evidence to the Land Reform Review Group (attached) sets out some of the detail on this proposal and the ideas there are being developed further. The idea of starter tenancies is a welcome one and one that a land agency could well play a role in.

How easy is it for land in public ownership to be transferred to communities and other private individuals, where that would be in the public interest? Should steps be taken to make it easier? For instance, should the UK and Scottish Governments compile a register showing land and assets for disposal? Should there be changes in the way in

which such land and assets are valued? What UK Treasury rules are relevant to this area?

In the realm of private ownership of land our evidence to the Land Reform Review Group (attached) sets out our detailed ideas for simplification and reform to make community purchases easier. In the realm of public ownership of land we believe the process would be helped by publicly available registers of land and assets with potential for disposal, together with arrangements, such as exist for the National Forest Land Scheme to be replicated across the public sector. Indeed we would go as far as to argue this should be a duty placed on each public authority. We do not believe that the Treasury rules limit the ability to transfer land in appropriate ways, in principle. However, we believe the understanding within government about what the Treasury rules do permit by way of discretion is not clearly understood and the procedures this militates against that discretion being used. We have submitted a paper on this subject to the evidence on the Community Empowerment and Renewal Bill and this is attached for your interest.

There is a case for looking at valuation principles that attach to underused or unused public assets, and what is taken into account in private valuations which factors in tax benefits open only to private owners, to ensure they are more suited to the actual circumstances and the potential for wider community benefits that can be achieved by valuations which account for this.

Should a Land Value Tax of some sort be introduced in Scotland, as a replacement or addition to council tax and business rates?

One means to create movement in land ownership is to have suitable incentives not to have underused land which might otherwise have potential for community and economic development. As part of the overall mix of taxation, the case for a land value tax requires to be seriously considered.

The question of Land Value Taxation has been debated for over 100 years and has many supporters and, in principle, would appear to have potential benefits. We hope the SAC will take evidence on this issue as part of consideration of the overall taxation mix affecting land. If there is to be a new form of land tax to seek to balance the wider public interest against the current beneficial arrangements enjoyed by private owners, then it needs to be a simple and separate tax. The question of appropriate exemptions for community owned land should also be considered, given their purpose is to provide public benefits from land ownership.

ENDS

