

Comparison of the Land Reform (Scotland) Bill with the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries in the context of National Food Security

Megan MacInnes, revised, 14th October 2015

a) Summary of findings and recommendations

This paper is a short, introductory analysis comparing some key sections of the Land Reform (Scotland) Bill 2015 with relevant provisions of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries in the context of National Food Security (hereinafter the VGGTs).

At a fundamental principle, much of the Land Reform (Scotland) Bill is in line with the VGGTs, particularly the Scottish Government's vision for a stronger relationship between the people of Scotland and the land of Scotland, where ownership and use of the land delivers greater public benefits through a democratically accountable and transparent system of land rights. However, there are some specific areas where the proposals within the Bill could be moved closer to the VGGTs, as follows:

- **Recommendation 1:** The LRB could be strengthened and brought closer in line with the VGGTs (and the Scottish Government's existing human rights obligations) if the relationship between land rights and the broader international human rights instruments, particularly the International Covenant on Economic, Social and Cultural Rights (ICESCR) and VGGTs, were explicitly recalled within the Bill itself.
- **Recommendation 2:** The LRB itself should require that the LRRS must be in-line with Scotland's existing international human rights obligations, in particular ICESCR and the VGGTs.
- **Recommendation 3:** The Land Reform (Scotland) Bill itself should require that the land rights and responsibilities statement should be developed and reviewed every five years through a process of public consultation, with parliamentary oversight.
- **Recommendation 4:** Extend the selection criteria for the Commissioners to include individuals with the capacity and experience to reflect the concerns of specifically vulnerable and marginalised groups in Scotland.
- **Recommendation 5:** Include amendments to the Land Registration etc. (Scotland) Act 2012 which would increase the accessibility of information within the Land Register, including making it fully available online for free, as is done in Denmark, as well as procedures to improve information sharing between the Land Registry and other sources and databases of relevant spatial information.
- **Recommendation 6:** Include in the Land Reform (Scotland) Bill further amendments to the Land Registration etc. (Scotland) Act 2012, which would require information about the beneficial owner(s) of the company (and other forms of legal entities) as well as the value of the land, to be included within the general conditions of application registered. To align the

definition of beneficial owner with the definition of ‘person of significant control’, as per the UK Small Business Enterprise and Employment Act 2015.

- **Recommendation 7:** Amend the voluntary guidance on engaging with communities to be a binding duty to engage, for all land owners, which includes concrete actions which will be taken by the Government should this duty not be undertaken, or the results ignored.
- **Recommendation 8:** Introduce provisions whereby communities or individuals involved in such engagement and consultation processes can get additional support from the Scottish Government or other agencies, as and when needed.
- **Recommendation 9:** Considering the Scottish Government’s existing obligations in relation to the progressive realisation of the right to food, review the current provisions of the Land Reform (Scotland) Bill and recommendations by the Land Reform Review Group to identify ways in which investments in land in Scotland (on both large and small scales) could meet the VGGTs definition of “responsible investment” and in doing so, further contribute to the realization of this right.
- **Recommendation 10:** In line with the overarching provision of the VGGTs that laws, policies and procedures should be easily accessible to local communities, the Scottish Government should review the further amendments to the community right to buy land proposed in the LRB to ensure they will have the overall impact of simplifying (rather than further complicating) these rights and the procedures intended to realize them.
- **Recommendation 11:** Reconsider introducing into the Bill the proposal by the Land Reform Review Group to introduce an upper limit on the total amount of land in Scotland that can be held by a private land owner or single beneficial interest group.

The full detail of the analysis and the background to each of these recommendations is provided below.

b) Introduction and methodology

This paper is a short, introductory analysis comparing the Land Reform (Scotland) Bill 2015 (hereinafter LRB) with the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Forests and Fisheries in the context of National Food Security¹ (hereinafter VGGTs), adopted by the intergovernmental UN Committee on Food Security in 2012.

This analysis compares Parts 1, 2, 3, 4 and 5 of the LRB and the Bill’s policy memorandum with relevant sections in the VGGTs. The structure outline of both the LRB and the VGGTs is provided in an Annex for easy referral. Resources were not available to compare the sections of the LRB covering valuations roll of shootings and deer forests (part 6), common good land (part 7), deer management (part 8), access rights (part 9) or agricultural holdings (part 10). Neither was there time to undertake an assessment of the ways in which Scotland’s full legislative framework is in line with the VGGTs, as a whole.

On behalf of Global Witness, myself and colleagues were active civil society representatives during the intergovernmental negotiations of the VGGTs at the UN-FAO in Rome during 2011 and 2012, and

¹ Further information is available here: <http://www.fao.org/nr/tenure/voluntary-guidelines/en/>

the subsequent negotiations on the Principles for Responsible Investment in Agriculture and Food Systems (adopted in 2014), as well as ongoing civil society activism to ensure both standards are implemented on the ground.² This gives us insight into the overarching intention and spirit of the VGGTs, given that (unlike the LRB) they are not accompanied by a policy memorandum.

The VGGTs should be considered in Scotland as additional guidance towards the progressive realisation of the Government's existing human rights obligations under international law, including the Universal Declaration of Human Rights and other international human rights instruments. It should also be noted that the European Convention on Human Rights (ECHR) has not been updated since the adoption of the VGGTs.

b) Overarching analysis of the Land Reform (Scotland) Bill and the VGGTs

The VGGTs are voluntary, but are described by the UN-FAO as “... *the first comprehensive, global instrument on tenure and its administration to be prepared through intergovernmental negotiations. The guidelines set out principles and internationally accepted standards of responsible practices for the use and control of land, fisheries and forests. They provide guidance for improving the policy, legal and organisational frameworks that regulate tenure rights; for enhancing the transparency and administration of tenure systems; and for strengthening the capacities and operations of public bodies, private sector enterprises, civil society organisations and people concerned with tenure and governance. The guidelines place the governance of tenure within the context of national food security, and are intended to contribute to the progressive realization of the right to adequate food, poverty eradication, environmental protection and sustainable social and economic development.*”

Absent an explicit “right to land”, the VGGTs have now become the only agreed inter-governmental statement on how the governance of land tenure and human rights interact. They also further the position that land tenure security is a necessary precondition for the realization of other internationally protected human rights.

The overarching objective of the VGGTs is threefold: “... *to improve governance of tenure of land, fisheries and forests ... to do so for the benefit of all, with an emphasis on vulnerable and marginalized people, with the goals of food security and progressive realization of the right to adequate food, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, environmental protection and sustainable social and economic development ... [and to do this] ... consistent with States' existing obligations under international law, including the Universal Declaration of Human Rights and other international human rights instruments*” (1.1).

The VGGTs give guidance to States (3A1) and non-state actors (3A2) including “business enterprises” (ie. companies), in support of the already adopted definition in the UN Guiding Principles for Business and Human Rights.³ Under this, business enterprises (regardless of their investment role or incorporation) have a responsibility to respect human rights and act with due diligence to avoid

² Further information is available here: <http://www.fao.org/cfs/cfs-home/resaginv/en/>

³ For further information, please see:

http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

infringing on human rights. Furthermore States should provide effective judicial remedies for negative impacts caused by such business enterprises (3A2).

The scope and reach of the VGGTs is therefore much broader than the Scottish Government's LRB and is therefore most useful in providing guidance at a visionary level in terms of international standards, rather than detailed procedural provisions.

The implementation of the VGGTs are guided by ten principles (3B): human dignity, non-discrimination, equity and justice, gender equality, holistic and sustainable approach, consultation and participation, rule of law, transparency, accountability, and continuous improvement. In comparison, the LRB itself does not give outline equivalent over-arching principles (although there is a commitment in Part 1 to develop a land rights and responsibilities statement – see below for further details). However, the LRB's policy memorandum does give further detail about the Bill's policy objectives and aim, which go some way to fulfilling the VGGTs' principles of implementation:

- Recognising the relationship between land and ideas of well-being, social justice, opportunity and identity (2)
- Recalling the Scottish Government's vision for a stronger relationship between the people of Scotland and the land of Scotland, where ownership and use of the land delivers greater public benefits through a democratically accountable and transparent system of land rights (3)
- Recognising the impact land reform can have on local empowerment and improving diversity of ownership and management of land, as well as sustainable development (5)
- Recalling that since devolution, land reform has been central to achieving a number of outcomes around fairness, equality and social justice for the people of Scotland (9)

These sections of the Bill's policy memorandum also align with the VGGTs in terms of recognising the social, cultural, economic and environmental significance of land, fisheries and forests, as well as the interconnected relationships between land, fisheries and forests and their uses, and the need for an integrated approach to their administration (5.3).

Nevertheless, the LRB does not itself explicitly recognise the relationship between land and human rights, as for example included in the recently passed Community Empowerment (Scotland) Act 2015.

- **Recommendation 1:** The LRB could be strengthened and brought closer in line with the VGGTs (and the Scottish Government's existing human rights obligations) if the relationship between land rights and the broader international human rights instruments, particularly the International Covenant on Economic, Social and Cultural Rights (ICESCR) and VGGTs, were explicitly recalled within the Bill itself.

c) Detailed analysis of selected parts of the Land Reform (Scotland) Bill and the VGGTs

Part 1 – Land Rights and Responsibilities Statement

Part 1 of the LRB states that Ministers must prepare a land rights and responsibilities statement (LRRS) and lay it before the Scottish parliament within 12 months of the LRB coming into force, which is reviewed every five years. The LRRS is the most obvious place to embed a commitment to existing human rights obligations within the Bill itself. Although the Policy Memorandum states that the LRRS will be developed and reviewed through public consultation, this requirement risks getting lost in the detail (at paragraph 43). As a result, the implementation of the LRB may not be in line with the VGGTs, which requires policy and legislative changes relating to land tenure to be undertaken through public consultation:

- *“States should develop relevant policies, laws and procedures through participatory processes involving all affected parties, ensuring that both men and women are included from the outset.”(5.5)*
 - *“States should, in drafting tenure policies and laws, take into account the social, cultural, spiritual, economic and environmental values of land, fisheries and forests held under tenure systems of indigenous peoples and other communities with customary tenure systems. There should be full and effective participation of all members or representatives of affected communities, including vulnerable and marginalized members, when developing policies and laws related to tenure systems of indigenous peoples and other communities with customary tenure systems”.(9.7)*
- **Recommendation 2:** The LRB itself should require that the LRRS must be in-line with Scotland’s existing international human rights obligations, in particular ICESCR and the VGGTs.
- **Recommendation 3:** The LRB itself should require that the LRRS should be developed and reviewed every five years through a process of public consultation, with parliamentary oversight.

Part 2 – The Scottish Land Commission

The degree of detail in the LRB goes beyond what is in the VGGTs in relation to the Scottish Land Commission, however the VGGTs are relevant in terms of the importance of public consultation on the development of laws, policies and procedures (as noted in Art 5.5 and 9.7 above), which the LRB is fulfilling through the current Parliamentary Stage 1 evidence gathering and consultation process, to which this paper is a submission.

Given the VGGTs’ emphasis on improving governance of tenure of land, forests and fisheries for the benefit of all, but with an emphasis on vulnerable and marginalised people (Art 1.1), the selection of the Commissioners could more specifically reflect the experience of these groups.

- **Recommendation 4:** Extend the selection criteria for the Commissioners to include individuals with the capacity and experience to reflect the concerns of specifically vulnerable and marginalised groups in Scotland.

Part 3 – Information about control of land etc.

The VGGTs recommend a number of actions by States (and others) to improve transparency of land tenure, rights and ownership:

- Transparency is one of ten principles of implementation for the VGGTs (3B) *“Transparency: clearly defining widely publicizing policies, laws and procedures in applicable languages and widely publicizing decisions in applicable languages and in formats accessible to all”*
- Developing a legal framework for disclosing spatial information (6.5) *“States should establish policies and laws to promote the sharing, as appropriate, of spatial and other information on tenure rights for the effective use by the State and implementing agencies, indigenous peoples and other communities, civil society, the private sector, academia and the general public. National standards should be developed for the shared use of information, taking into account regional and international standards.”*
- Importance of land registries (11.5) *“States should establish appropriate and reliable recording systems, such as land registries, that provide accessible information on tenure rights and duties in order to increase tenure security and reduce the costs and risks of transactions.”*
- What such data registries should include (17.1) *“States should provide systems (such as registration, cadastre and licensing systems) to record individual and collective tenure rights in order to improve security of tenure rights, including those held by the State and public sector, private sector, and indigenous peoples and other communities with customary tenure systems; and for the functioning of local societies and markets. Such systems should record, maintain and publicise tenure rights and duties, including who hold those rights and duties, the parcels or holdings of land, fisheries or forests to which the rights and duties relate.”*
- That such data should be publicly available (17.5) *“States should ensure that information on tenure rights [previously defined as covering ownership and use rights] is easily available to all, subject to privacy restrictions.”*
- That transparency in relation to market transactions and land valuation is also essential (7.4) *“States and other parties should ensure that information on market transactions and information on market values are transparent and widely publicized, subject to privacy restrictions”* and (18.5) *“Implementing agencies should make their valuation information and analysis available to the public in accordance with national standards”*
- Transparency recognised as a key tool during the initial identification and mapping of land rights (7.4) *“Locally appropriate approaches should be used to increase transparency when records of tenure rights are initially created, including the mapping of tenure rights”*
- Integrating spatial planning with other information systems (17.2) *“In order to enhance transparency and compatibility with other sources of information for spatial planning and other purposes, each State should strive to develop an integrated framework that includes existing recording systems and other spatial information systems.”*
- And making these accessible at the local level (17.3) *“Where appropriate, implementing agencies, such as land registries, should establish service centres or mobile offices, having regard to accessibility by women, the poor and vulnerable groups”*

No-one would dispute that Scotland has one of the world’s oldest land registries; however a number of improvements could be made to ensure it functions fully in line with the VGGTs. Of particular concern is the lack of clear definition of the disclosure of the details of the proprietor and

“controlling interest” (paragraph 36 and 48A(2)(d)) and those who control land (paragraph 35(2)(a)). This lack of clarity creates a potential loophole where in all that may be disclosed is the name of a shell company, not the natural person who either owns or controls the land.⁴

- **Recommendation 5:** Include amendments to the Land Registration etc. (Scotland) Act 2012 which would increase the accessibility of information within the Land Register, including making it fully available online for free, as is done in Denmark⁵, as well as procedures to improve information sharing between the Land Registry and other sources and databases of relevant spatial information.
- **Recommendation 6:** Include in the LRB further amendments to the Land Registration etc. (Scotland) Act 2012, which would require information about the beneficial owner(s) of the company (and other forms of legal entities) as well as the value of the land, to be included within the general conditions of application at the point of registration. To align the definition of beneficial owner with the definition of ‘person of significant control’, as per the UK Small Business Enterprise and Employment Act 2015.⁶

Part 4 – Engaging communities in decisions relating to land

Two of the VGGTs principles of implementation relate to Part 4 of the LRB on engaging communities in decisions relating to land:

- *“Consultation and participation: engaging with and seeking the support of those who, having legitimate tenure rights, could be affected by decisions, prior to decisions being taken, and responding to their contributions; taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes”*(3B6)
- *“Accountability: holding individuals, public agencies and non-state actors responsible for their actions and decisions according to the principles of the rule of law”*(3B9)

Three points are critical in considering these principles relating to Part 4 of the LRB. Firstly that the principles of implementation of the VGGTs are not just the responsibility of the State, but also non-state actors, particularly business enterprises, and that States have a role to ensure these business enterprises are fulfilling these responsibilities (3.2). Secondly, that consultation and participation is not just done to inform those who may be affected by decision-making processes, but to actively seek their support and respond to the contributions they make. Thirdly, the principle recognises that consultation and participation processes are impacted by power imbalances between different parties and that States have a role to address such power imbalances to ensure the active, free,

⁴ For further information please see Global Witness’ submission to RACCE on the Land Reform (Scotland) Bill, submitted to the committee on 13th August 2015.

⁵ For further information please see:

http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB_15-38_International_Perspectives_on_Land_Reform.pdf

⁶ For further information please see: <http://www.legislation.gov.uk/ukpga/2015/26/contents/enacted> and the internationally recognised definition of beneficial owner, available at: <http://www.fatf-gafi.org/documents/news/transparency-and-beneficial-ownership.html>

effective, meaningful and informed participation of individuals and groups in associated decision-making processes.

The issue of power imbalances is further addressed by a third implementation principle of the VGGTs *“Equity and justice: recognising that equality between individuals may require acknowledging differences between individuals, and taking positive action, including empowerment, in order to promote equitable tenure rights and access to land, fisheries and forests, for all, women and men, youth and vulnerable and traditionally marginalized people, within the national context”* (3B3).

In chapter 12 of the VGGTs (which focus on the role of companies and land investments) further guidance is given on how communities should be consulted about decisions which could affect them *“States and other relevant parties should inform individuals, families and communities of their tenure rights, and assist to develop their capacity in consultations and participation, including providing professional assistance as required”* (12.9).

Part four of the LRB currently requires that Scottish Ministers issue guidance about engaging communities in decisions relating to land which may affect communities (37)(1), taking into consideration how to further achieve sustainable development (37)(2) and requiring Ministers to consult with “persons they consider appropriate” before the guidance is issued (37)(4). The Bill further requires that the guidance must consider information about what types of land and land-related decisions it should cover, the circumstances in which those who own or control land should carry out community engagement, and how this community engagement should be carried out (37)(3). The Policy Memorandum does mention possible consequences of not following this guidance (162 to 169), including a lack of engagement being a factor Scottish Ministers could consider as part of an application for a community right to buy, and in relation to decisions on the awarding of discretionary grants. However, the extent to which such sanctions will be introduced is currently proposed to be left to Ministerial discretion and there is no mention of sanctions on the face of the Bill.

This proposal for guidelines on community engagement in the LRB differs from what was included in the December 2014 Scottish Government consultation on the future of land reform in Scotland; namely a proposed duty of community engagement on charitable trustees when taking decisions on land management. This original proposal is more in line with the VGGTs than the current LRB in one way, because it places a clear and binding duty on land owners (albeit, only charitable trustees) to consult with local communities about decisions which may impact them, rather than just committing to develop guidance which will be applied voluntarily. In another way, the LRB proposal goes beyond the VGGTs and the December 2014 consultation’s proposal, as the guidance will be applied to all landowners, not just charitable trustees. An additional difference between the Bill and the VGGTs is that whereas the Bill is yet unclear about if sanctions will come into force if the guidance is not followed, the VGGTs not only recommend that States and companies consult with local communities, they also recommend that States proactively provide additional support to enable communities to engage in such processes, to address recognised power imbalances.

- **Recommendation 7:** Amend the voluntary guidance on engaging with communities to be a binding duty to engage, for all land owners, which includes concrete sanctions (in the face of

the Bill) which will be taken by the Government should this duty not be undertaken, or the results ignored.

- **Recommendation 8:** Introduce provisions whereby communities or individuals involved in such engagement and consultation processes can get additional support from the Scottish Government or other agencies, as and when needed.

Part 5 – Right to buy land to further sustainable development

The provisions in the LRB relating to strengthening the right of communities to buy land are amendments to existing provisions in the Land Reform (Scotland) Act 2003 and Community Empowerment (Scotland) Act 2015. As such, any comparison with the VGGTs needs to cover all right to buy provisions in existing legislation.

As a whole, Scotland’s legal provisions empowering communities with the right to buy their land is absolutely in line with the VGGTs. In fact, as noted by SPICe, these provisions – which place an obligation on the owner to sell the land to the community bidder when it comes on the market – appear to be uniquely progressive.⁷

Such provisions are comprehensively supported by the VGGTs’ position on redistributive land reform:

- *“Redistributive reforms can facilitate broad and equitable access to land and inclusive rural development. In this regard, where appropriate under national contexts, States may consider allocation of public land, voluntary and market based mechanisms as well as expropriation of private land, fisheries of forests, for a public purpose” (15.1)*
- *“In the national context and in accordance with national law and legislation, redistributive reforms may be considered for social, economic and environmental reasons, among others, where a high degree of ownership concentration is combined with significant levels of rural poverty attributable to lack of access to land, fisheries and forests ... ” (15.3)*

The VGGTs therefore support the initial community right to buy provisions in Part 2 of the Land Reform (Scotland) Act 2003 as well as the crofting community right to buy provisions of the Act’s Part 3. The amendments to the community right to buy provisions introduced earlier in 2015, extending the right to buy to land across Scotland (still with relevant exemptions), introducing a new provision on abandoned and neglected land and simplifying the community body entity registration requirement, move Scotland even closer to meeting the VGGTs. As do the amendments proposed in the LRB to approve the sale of land to communities in order to further sustainable development. In fact, the proposal in the Bills’ policy memorandum goes further than the VGGTs in specifying that a lack of landowner engagement with communities or consideration of the guidance (part four above) could be considered as part of the evidence assessed by Ministers during an application for the right to buy (166).

⁷ Available here: http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB_15-38_International_Perspectives_on_Land_Reform.pdf

Like in Scotland however, the VGGTs recommend that such redistributive reforms should be implemented only through clearly defined objectives (15.5), are consistent with existing obligations under national and international law, are undertaken in line with the rule of law and through full consultation, making sure that the needs of all parties are met (15.4). Interestingly, the VGGTs also suggest that States may consider land ceilings as a policy option in the context of implementing redistributive reforms (15.2) a suggestion made by the LRRG (recommendation 29, under section 24 – patterns of rural land ownership), but not carried forward by the Scottish Government into the LRB.

The VGGTs provide specific guidance on how to balance the need to protect private property and further public interests in all land governance issues, including redistributive reforms: *“All parties should recognise that no tenure right, including private ownership, is absolute. All tenure rights are limited by the rights of others and by the measures taken by States necessary for public purposes. Such measures should be determined by law, solely for the purpose of promoting general welfare including environmental protection and consistent with States’ human rights obligations. Tenure rights are also balanced by duties. All should respect the long-term protection and sustainable use of land, fisheries and forests”* (4.3).

As such, the analysis in the Bill’s policy memorandum of the human rights impacts of the implementation of the community engagement and right to buy land to further sustainable development (198-202), including Article 1 of Protocol 1 of the ECHR, are also in line with the VGGTs.

In terms of the furthering of sustainable development, the VGGTs include important provisions recognising the connection between public and private investments in land, and objectives of improving food security. They also include a new and important normative definition of what “responsible investments” should be considered to constitute in relationship to the responsible governance of land, fisheries and forests:

- *“State and non-state actors should acknowledge that responsible public and private investments are essential to improve food security. Responsible governance of tenure of land, forests and fisheries encourages tenure right holders to make responsible investments in these resources, increasing sustainable agricultural production and generating high incomes. States should promote and support responsible investments in land, fisheries and forests that support broader social, economic and environmental objectives under a variety of farming systems”* (12.1).
- *“Responsible investments should do no harm, safeguard against dispossession of legitimate tenure right holders and environmental damage, and should respect human rights. Such investments should be made working in partnership with relevant levels of government and local holders of tenure rights to land, fisheries and forests, respecting their legitimate tenure rights. They should strive to further contribute to policy objectives such as poverty eradication; food security and sustainable use of land, fisheries and forests; support local communities; contribute to rural development; promote and secure local food production systems; enhance social and economic sustainable development; create employment; diversify livelihoods; provide benefits to the country and its people, including the poor and most vulnerable ...”* (12.4).

The VGGT also has an underlying principle of implementation which highlights the importance of sustainability "*Holistic and sustainable approach: recognizing that natural resources and their uses are interconnected, and adopting an integrated and sustainable approach to their administration*" (3B5).

- **Recommendation 9:** Considering the Scottish Government's existing obligations in relation to the progressive realisation of the right to food, review the current provisions of the LRB and recommendations by the LRRG to identify ways in which investments in land in Scotland (on both large and small scales) could meet the VGGTs definition of "responsible investment" and in doing so, further contribute to the realization of this right.
- **Recommendation 10:** In line with the overarching provision of the VGGTs that laws, policies and procedures should be easily accessible to local communities, the Scottish Government should review the further amendments to the community right to buy land proposed in the LRB to ensure they will have the overall impact of simplifying (rather than further complicating) these rights and the procedures intended to realize them.
- **Recommendation 11:** Reconsider the proposal by the LRRG to introduce an upper limit on the total amount of land in Scotland that can be held by a private land owner or single beneficial interest group.

Annex: Comparison of the Structure of the LRB and the VGGTs

Note: emphasis has been added to highlight the sections of each which are referred to in the above analysis or should be prioritised for further future comparison.

VGGTs	Land Reform Bill
<p>1) Preliminary</p> <ul style="list-style-type: none"> • Objectives • Nature and scope <p>2) General matters</p> <ul style="list-style-type: none"> • Guiding principles – principles and implementation • Rights and responsibilities related to tenure • Policy, legal and organisational frameworks related to tenure • Delivery of services <p>3) Legal recognition and allocation of tenure rights and duties</p> <ul style="list-style-type: none"> • Safeguards • Public land, fisheries and forests • Indigenous peoples and other communities with customary tenure systems • Informal tenure <p>4) Transfers and other changes to tenure rights and duties</p> <ul style="list-style-type: none"> • Markets • Investments • Land consolidation and other re-adjustment approaches • Restitution • Redistributive reforms • Expropriation and compensation <p>5) Administration of tenure</p> <ul style="list-style-type: none"> • Records of tenure rights • Valuation • Taxation • Regulated spatial planning • Resolution of disputes over tenure rights • Transboundary matters <p>6) Responses to climate change and emergencies</p> <ul style="list-style-type: none"> • Climate change • Natural disasters • Conflicts in respect to tenure of land, fisheries and forests <p>7) Promotion, implementation, monitoring and evaluation</p>	<p>Part 1 – Land rights and responsibilities</p> <p>Part 2 – Scottish Land Commission</p> <ul style="list-style-type: none"> • Chapter 1 – The Commission <ul style="list-style-type: none"> ○ Establishment ○ Function ○ Strategic plan and programme of work ○ Membership ○ Remuneration and staff ○ Operational matters ○ Accounts and annual report ○ Application of public bodies legislation • Chapter 2 – The Land Commissioners <ul style="list-style-type: none"> ○ Function ○ Land Commissioners – delegation of function • Chapter 3 – The Tenant Farming Commissioner <ul style="list-style-type: none"> ○ Functions ○ Codes of practice ○ Inquiry function ○ power to refer questions of law to Land Court <p>Part 3 – Information about and control of land</p> <ul style="list-style-type: none"> • Right of access to information on persons in control of land • Information relating to proprietors of land <p>Part 4 – Engaging communities in decisions relating to land (proposal to develop guidance)</p> <p>Part 5 – Right to buy land to further sustainable development</p> <ul style="list-style-type: none"> • Register of land for sustainable development • Applications for consent • Procedure following consent • Compensation • Mediation • Interpretation of Part 5 <p>Part 6 – Entry in valuation roll of shootings and deer forests</p> <p>Part 7 – Common good land</p> <p>Part 8 – Deer management</p> <p>Part 9 – Access rights (core paths & court applications)</p> <p>Part 10 – Agricultural holdings</p> <ul style="list-style-type: none"> • Chapter 1 – Modern limited duration tenancies • Chapter 2 – Tenant’s right to buy • Chapter 3 – Sale where landlord in breach • Chapter 4 – Rent review

- Chapter 5 – Assignment of and succession to agricultural tenancies
- Chapter 6 – Compensation for tenants improvements
 - Amnesty for tenant’s improvements
 - Objection to amnesty notice and referral to Land Court
 - Agreements made during amnesty period
- Chapter 7 – Improvement by landlord

Part 11 – General and miscellaneous

NOTE: then is **Policy Memorandum** & Explanatory Notes