

Agricultural Holdings Review

Submission by Community Land Scotland

Community Land Scotland is the representative organisation of Scotland's community land owners. Those community land owners now own, in aggregate, some 500,000 acres of land with a number of members having responsibility through ownership of farm tenancies, much of which is currently in the Highlands and Islands and represents an important resource to those areas.

The Scottish Government has a target to double the amount of community owned land by 2020 and it is known that a number of communities are currently in the process of seeking to acquire their land, sometimes including farm tenancies.

Community ownership of land is democratic and has at its heart the question of the common good and the sustainable future of the local community, delivered through the ownership and appropriate use of the land and associated assets. The focus of community owners is largely economic in providing a better means to a more sustainable future through the provision of housing and jobs associated with the utilisation of the resources at their disposal.

Submission

Community Land Scotland (CLS) endorses the view of the Land Reform Review Group that land is a finite and crucial resource and requires to be used and owned in the public interest for the common good. It further believes the best interests of sustainable and populated rural communities is served by greater diversity in land ownership and land occupation, and this principle ought to underpin Scottish Government policy toward land generally.

CLS believes it is vital to create the conditions where farmers feel secure enough on the land to make the necessary investments and receive the appropriate rewards and compensation for their efforts. As such, providing better security of tenure, and wider succession and assignment rights, are a necessary pre-requisite for a vibrant farming sector contributing to vibrant rural communities more generally. The current tenancy arrangements are not producing the right results for long term secure farming in diverse ownership and occupation.

It is essential to see no further erosion of tenanted land and what is currently tenanted should be 'ring fenced' to maintain it as availability for future, more secure, tenancies.

Greater succession and assignation rights should be afforded to tenant farmers (in a similar way as exist for crofting already), such as to provide for a form of secure ongoing secure tenancy, with improved arrangements for tenants at 'way-go', thus improving their sense of family security and as a basis for incentivising greater tenant investment for the long term.

From a position where there was effectively an absolute security of tenure for tenants, with wider succession and assignment rights, Community Land Scotland recognises the relatively small step between this and an eventual and possible right to buy, in circumstances when that could be shown to be in the public interest. As in crofting, however, even when crofters exercise their right to buy the croft, the land in question should remain subject to regulation in the wider public interest.

Within any context where there is a right to buy, Community Land Scotland is concerned with the subsequent right to sell, if that simply meant larger interests could then 'swallow-up' numbers of farming units and local farming

could go out of local control and simply be managed 'in hand' as part of a larger land enterprise. So, it would propose that any sales of land secured under any right to buy would have to be subject to wider approval of what was in the public interest when it came to a sale, in order to seek to maintain the diversity of ownership and prevent future monopoly holdings emerging. This would potentially mimic the 'Safer' system of agricultural land sales controls seen in France.

Further, it would be in the public interest for the state to have intervention powers in certain circumstances to meet the requirement for a supply of new tenancies. To this end there should be a 'land agency' which had duties and appropriate powers to acquire land across Scotland to make it available for new tenancies and starter tenants which could not be purchased for a period of years by any new tenant and, if subsequently purchased under any right to buy provision, would be replaced by another purchase to create tenanted land.

Where land has been taken into community ownership as a deliberate act to regenerate a community and agreed upon democratically by the people of the area concerned, as required by the Land Reform (Scotland) Act 2003 or by grant conditions attaching to publicly supported purchase, the wider community interest in what happens to that land needs to be firmly assessed as part of any future regulatory framework built around any future possible tenants right to buy. Formally, community land purchases are only sanctioned on the basis that they serve the furtherance of sustainable development and are in public interest and so if there ever is a tenants rights to buy from a community landowner there would need to a significant demonstration as to how the tenant's rights to buy would further the public interest. A Right to Buy, or even the potential for a registration of interest in a right to buy, could have material impacts on community land owners and democratically determined community land use priorities, particularly in small island settings or remote peninsula, and these require to be fully considered within any public interest considerations around a tenants right to buy. The business model established to look after the heritable assets of such communities can be structured to ensure sustainability for future generations of islanders. Borrowing against the assets has been part of the planned development approach of the community. Removing assets, through a right to purchase by an individual member of the community, could put the model and wider community sustainability at risk and the plans laid down for development may become unachievable. Such factors are particular to community ownership of land which is owned for the sole purpose of advancing the common good, and this is why the public interest considerations in such circumstances would require full and detailed consideration.

Community Land Scotland invite the Agricultural Holdings Review Group to recognise that community owned land purchased under the terms of the Land Reform Act differs from the ownership of most other land in so far as it has come in to community ownership by deliberate and democratic local decision for the purpose of supporting long term sustainability of the community in question and to widen local opportunity, very often in the most fragile communities facing population loss. This can only happen and after showing the action of purchase supported the furtherance of sustainable development and was in the public interest. This should underpin the suggestion above about the need to find the right balance in what served the public interest when tenanted land in community ownership and was subject to any future right to buy application.

Community Land Scotland

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