

Land Reform Bill (Scotland) 2025

Stage 1 Report and Debate

Background

Land reform has long been a Scottish Government objective. One that seeks to deliver the public interest in land (and how that land is owned and managed), with a focus on diversification of landownership. However, research by Andy Wightman has recently shown that landownership is further concentrating in Scotland, with now 421 landowners owning 50% of the private rural land, despite several pieces of land reform legislation.¹

Community Land Scotland (CLS) supports the need for significant further land reform. Scotland has one of the most concentrated patterns of landownership anywhere in the world and is an international anomaly. Research by the Scottish Land Commission has highlighted the negative impacts of concentrated landownership.² This has serious repercussions for how power and opportunity is accumulated, wealth is distributed and how Scotland can respond to the climate and biodiversity crises.

Note: Community Land Scotland's briefings and suggested amendments are focused on Part 1 of the Bill relating to Land Reform.

Community Land Scotland's view on the Bill and Stage 1 report

Community Land Scotland welcome the Stage 1 report on the Land Reform Bill from the Net Zero, Energy and Transport (NZET) Committee which highlights significant areas of weakness within the draft legislation and several important ways in which the legislation will not meet its stated policy objectives, as things stand. Our chief concern with the Bill as drafted is that it does not seriously address the question of land ownership diversification in Scotland and offers limited influence on the issue of lesser significance, land use and management.

We agree with the Committee's conclusion that the principles of the Bill should be supported but that significant amendment is needed for the Bill to deliver the policy outcomes of more diversified ownership and greater transparency over land management and ownership.

The Committee heard evidence from many different stakeholders that land reform had lost momentum and further change is needed. We agree with their assessment that 'a lack of available land is a serious impediment to economic development, local services, affordable housing and other quality-of-life issues. There can be power imbalances that leaves landowners, and not the community, the key local decision takers.'

¹ [Who Owns Scotlands 2024 - Land Matters](#)

² [Investigation into the Issues Associated with Large scale & Concentrated Landownership in Scotland, Scottish Land Commission, March 2019](#)

Community Land Scotland agree with the Committee that **Part 1 provisions are an attempt to build on previous efforts at land reform, which need kick-starting to prevent the land reform process completely stalling.** However, Part 1 is potentially burdensome and bureaucratic. It should have simple and effective processes for delivering the land reform objectives that the Scottish Government, Scottish Parliament and most of the stakeholders who gave evidence agree on. **Parliament has an important role to play in strengthening and simplifying the legislation so that significant landholdings in Scotland are owned and managed in the public interest.**

The Committee heard arguments in defence of the status quo of landownership and management which in our view are indefensible and which were rightly contested during evidence sessions. The argument that Scotland's archaic concentrated landownership delivers easy opportunities for meeting climate and biodiversity goals is potentially misleading, as small landowners effectively work together in the public interest all over Europe.³ **Scotland's history of concentrated landownership and lack of public oversight has resulted in one of the world's most depleted natural environments, alongside a lack of opportunities, democracy and wealth sharing.** It is with good reason that the United Nations have explicitly encouraged member states to pursue policies and legal frameworks which avoid the concentration of landownership.⁴

It is important that we look to these international comparators so that we can see beyond the limited and damaging status quo and start to imagine how our land could be used more productively and equitably.

There is an important opportunity to produce a land reform Act which can meaningfully support further community purchases, increase transparency of land management and ownership and help ensure landownership delivers in the public interest. However this will require significant changes to the Bill, which the Committee have identified, and Community Land Scotland have developed detailed amendments for.

Areas for amendment

A full list of the Committee recommendations and how they interact with Community Land Scotland's proposals to strengthen the Bill can be found in the Annex. In brief, CLS agree with Committee recommendations on:

- public interest being a much more prominent part of the Bill including underpinning lotting decisions
- the need for a Public Interest Test to replace the transfer test
- clarity and strengthening of Land Management Plan obligations and monitoring processes – including the reporting of breaches and associated penalties
- aligning thresholds and removing loopholes around contiguous landholdings

³ Evidence from Andy Wightman at NZET evidence session, [Stage 1 report on the Land Reform \(Scotland\) Bill](#), p.63.

⁴ [g2300035.pdf \(un.org\)](#), p.9.

- prior notification mechanisms need simplifying with longer timeframes for community applications

The key sections of Part 1 which Community Land Scotland suggest amendment or further consideration are:

1. **Transfer test to be properly re-defined as Public Interest Test** – this helps avoid legal challenge, more firmly centres human rights and more clearly centres an assessment of the potential monopoly impact of prospective buyer and how their ownership will meet the public interest⁵
2. **Thresholds of ‘significant landholdings’**: the removal of ‘contiguous’ within 44D to allow for aggregate landholdings to be included; the aligning of threshold criteria for land management plans and transfer tests:
 - 500ha⁶
 - 25% of any inhabited island
 - Sites of community significance - Land that a designated public body (potentially the Scottish Land Commission (SLC) or planning authorities) can agree is of significance to any applying community⁷
3. **Lotting Process**: decisions underpinned by public interest considerations, with lotting one of the potential outcomes of a meaningful Public Interest Test which places a forward-looking burden on the landownership
4. **Land Management Plans**: meaningful penalties for breaches and lack of compliance which include escalating proportionate fines and the potential of Public Interest Tests on existing ownership; broader criteria for all citizens to be able to report breaches; LMPs to be underpinned by public interest considerations
5. **Prior Notification of Sale**: currently based on faulty ‘late applications’ process in 2003 Act which needs serious amendment of timeframes, procedure and definitions⁸
6. **Land and Communities Commissioner**: stronger governance structures that require the Commissioner to engage more closely with the Commission; update the functions of the Commission and strengthen the enforceability of the Land Rights and Responsibilities Statement (LRRS)

⁵ The SLC published legal advice from James Mure KC on this topic in Feb 2022: [620f73b06cbc1_Land_Lines_-_Balancing_rights_and_interests_in_Scottish_land_reform.pdf](#) (landcommission.gov.scot)

⁶ This would mean 2,025 landholdings rather than c.420 will be under a requirement to produce LMPs and 17 rather than 8 transactions for a transfer test

⁷ This would be supported by guidance required by the provisions of the Bill, which would set out the issues that should be considered when using the discretion to bring a piece of land within consideration for the mechanisms within the Bill, in order to protect against “the creation or continuation of a situation in which excessive power acts against the public interest”.

⁸ There have been no successful ‘late applications’ since 2017

Key areas of discussion for the Stage 1 debate

In the Stage 1 debate we would welcome MSPs highlighting the following areas:

- Why isn't there a meaningful Public Interest Test within the Bill despite it being in the public consultation and featuring prominently in Scottish Land Commission recommendations?
- Has any assessment been made of the likely increase in legal challenge to the 'transfer test' and lotting provisions as public interest considerations have not been included as the rationale for these interventions?
- Why have public interest considerations not been included on the face of the Bill, as was the case for previous Land Reform Act 2016 and the Planning Act 2019? Will this be addressed?
- On average 7 land transactions per year (according to Land Commission research) will be picked up by the 'transfer test' when the threshold is 1000ha? How will this deliver any meaningful change of landownership patterns?
- Why is there no assessment of who will be buying land which falls under the transfer test? Communities who are purchasing land undergo thorough assessments of their business/land plans and local consultation/balloting
- What was the policy rationale for not including Scotland's towns, villages and cities in the legislation? Do these areas not also suffer from issues associated with concentrated landownership?
- Will the Scottish Government include Sites of Community Significance within the Bill to allow communities from around Scotland to proactively identify land/assets to which these new proposals should apply?
- How will a £5,000 fine be an effective means of ensuring Land Management Plans work when they may cost more than that to produce? Is ScotGov looking at other means of ensuring plans are produced and obligations are met?
- The Prior Notification of Sale for communities is based upon the 'late application' process in the 2003 Act, this has not been successfully used since 2017. What changes will be introduced to ensure that this new mechanism will work, when it is based upon legislation and internal procedures which are no longer working properly?
- Community Right to Buy applications typically take many months to be assembled and processed, how does the Government think the existing time frames of 70 days proposed under Prior Notification will allow for communities to successfully purchase land?
- Why does the Bill not further strengthen the LRRS as recommended by the Land Commission?
- What are the provisions within the Bill to secure accountability and good governance in relation to the new Commissioner?
- Reforms to taxation have been highlighted by the Land Commission and independent thinktanks as one of the most effective means of achieving land reform outcomes, why has some form of land taxation not been included within the Bill?

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Annex

Key findings and recommendations from Stage 1 report

The Committee have set out the following recommendations in the Stage 1 report, which Community Land Scotland largely agree with. However, **the recommendations point to the need for further clarity and detail to achieve the policy outcomes of the Bill.** The amendments Community Land Scotland have developed seek to add clarity and detail to how the Bill can be made meaningful. They are added below in bold alongside the Committee recommendations.

Land Management Plans

The NZET Committee recommended that:

- the land size threshold set for community engagement obligations (3,000 hectares) is too high – **CLS support but recommend aligned thresholds of 500ha⁹**
- there should be an amendment to require a landowner preparing an LMP to consider the local place plan (LPP) for the area, if one exists – **CLS support but LPP should not replace community engagement obligations in LMPs**
- LMPs should be required to set out how the prior community engagement that was undertaken has impacted the plan – **CLS support**
- LMPs are not only created, but the plans set out in them are actually taken forward- **CLS support – light touch monitoring of plans meeting their objectives will be needed to ensure accountability**
- a one-off fine of up to £5,000 is insufficient deterrent for breach of community engagement obligations. Subsidy cross-compliance should be included as part of escalating sanctions – **CLS support but there needs to be a final backstop of a Public Interest Test for repeated breaches on existing landownership**
- the list of those who can allege breaches of community engagement should be wider than currently in the Bill and identifying details should be removed from complainants before being shared with landowner – **CLS support**
- the Land and Communities Commissioner should have the power to pro-actively investigate potential breaches of community engagement obligations – **CLS support**

Prior Notification

The NZET Committee recommended that:

- the changes introduced by section 2 (prior notification) are unlikely to accomplish much on their own despite strong support for further opportunities for community ownership – there is a need for simplification and longer timeframes

⁹ This would mean 2,025 landholdings rather than c.420 will be under a requirement to produce LMPs, many of which will already be producing land management plans of some description. 96.4% of agricultural holdings in Scotland are under 500ha in size, family farms should not be disproportionately affected.

- **CLS support but there are issues with Community Right to Buy (CRtB) Late Applications not being accepted since 2017 and slow registration processes:**
 - timeframes for communities to submit applications need to be extended to 120 days
 - written confirmation letters issued by ScotGov within 28 days
 - clear guidance produced that any compliant groups are eligible, irrespective of whether they were already pursuing ownership before prior notification
- there should be greater alignment between the Bill and the review of CRtB – **CLS agree – the review and cannot be used to prevent addressing known faults in existing CRtB procedures through this Bill and the findings of the review need to result in legislative change**

Lotting and the transfer test (or the Public Interest Test)

The NZET Committee found that the creation of a transfer test rather than a public interest test was a policy choice and there was nothing to prohibit the inclusion of the sort of public interest test that stakeholders envision. Community Land Scotland strongly agree with this finding and call for the creation of a forward-facing public interest test as many stakeholders and the Scottish Land Commission originally envisaged.

The NZET Committee recommended that:

- the Scottish Government consider having a more express public interest test on the face of the Bill, including reference to proportionality and the need for a policy rationale – **CLS agree and have set out the public interest considerations which could underpin all the mechanisms within the Bill**
- support for giving the Scottish Ministers the ability to ‘lot’ large landholdings (which in this context mean estates of 1,000 hectares and over) to increase opportunities to diversify land ownership – **CLS support but recommend aligned thresholds of 500ha¹⁰**
- the “transfer test” set out in the Bill be reconsidered to ensure the public interest will be at the heart of lotting decisions - **CLS support and have proposed the public interest considerations which should underpin lotting decisions**
- The transfer test to be revised to provide a more robust test that might serve the purpose of diversifying land ownership in Scotland and ensuring that land is used in the public interest - **CLS support and have proposed a forward-looking public interest test which assesses an incoming buyer and their land management principles**

Thresholds

The NZET Committee recommended that:

¹⁰ 96.4% of agricultural holdings in Scotland are under 500ha in size, family farms should not be disproportionately affected. Looking at a 3-year average, 1,000 hectares would leave 96% of transfers unaffected and 500 hectares would leave 93% unaffected.

- There is some merit in aligning the land size thresholds operating across the Bill for reasons of policy cohesion and clarity for stakeholders - **CLS support but recommend aligned thresholds of 500ha**
- All of the thresholds in the Bill should be kept under review and with power to amend the thresholds if the Bill is not meeting its aims – **CLS support**
- Committee suggest that the potential loophole created by the Bill's application to only contiguous holdings is looked at, with land split by a road, railway or similar being treated as contiguous – **CLS support**
- How linked holdings are, in terms of their management and their use, should be considered in determining any adjustments needed to which landholdings would fall within scope – **CLS agree but suggest that aggregate landholdings over the agreed threshold should be included to address the issue of concentrated landownership at a national, not just local level**

Land and Communities Commissioner

- The Committee supports the creation of a Land and Communities Commissioner (LCC) – **CLS support but:**
 - **the LCC needs to be more closely linked to the Land Commission and should not operate with the current level of autonomy**
 - **Embedding regulatory powers in the Commission strengthens accountability of LCC and the functions of the Commission.**
- The Committee does not consider that large landowners should be immediately disqualified from being appointed Land and Communities Commissioner – **CLS disagree, if the individual is an existing large landowner they should be disqualified due to the potential conflict of interest over their own landholdings**