

Land Reform (Scotland) Bill 2025

Stage 2 scrutiny and amendments

Summary and recommendations

This briefing builds on previous Community Land Scotland (CLS) briefings that set out our views on the Land Reform (Scotland) Bill. It addresses the amendments being considered by the NZET Committee during the stage 2 process, beginning on 3rd June. It focuses on those amendments that seek to address the issues we have raised previously, and our reflections are grouped according to those issues. The following briefing is supported by the REVIVE coalition.

For the Bill to avoid being a wasted opportunity for our people, wildlife and environment, we strongly urge MSPs to support amendments which:

- Secure public interest considerations at the heart of the Bill and its measures, including the introduction of a public interest test - **we strongly support amendments 150, 151 and 152 in the name of Michael Matheson, 174, 174A, 174B, 459 in the name of Mercedes Villalba, 310 in the name of Ariane Burgess and 339 in the name of Rhoda Grant**
- Ensure Land Management Plans and any test or lotting decisions applies to a wider range of landholdings – **we strongly support amendments 4- 9 and 310 in the name of Ariane Burgess, amendments 174B in the name of Mercedes Villalba, amendment 182 in the name of Bob Doris, 339 in the name of Rhoda Grant**
- Address aggregate landholdings and the national concentration of landownership - **we strongly support the amendments 43, 122 and 140 in the name of Mercedes Villalba and amendment 127A and 127B in the name of Mark Ruskell**
- Ensure Scotland's cities, towns and villages can also benefit from these land reform measures – **we strongly support amendments 11, 42, 106, 112, 118, 121, 130, 139, 168 in the same of Michael Matheson**
- Ensure LMPs are enhanced by measures which strengthen their engagement, delivery and accessibility, including increased sanctions for breaches – **we strongly support the following amendments**
 - 16, 17, 20, 22, 30, 31, 32, 33, 70, 83, 89, 91, 97, 98, 99, 100, 107 in the name Bob Doris
 - 412 and 413 in the name Mark Ruskell
 - 317, 334, 337 and 338 in the name of Ariane Burgess
 - 335, 339 and 340, 345, 346, 347 in the name of Rhoda Grant
- Make prior Notification mechanisms workable for communities – **we strongly support amendments 349 – 354 in the name of Rhoda Grant**

- Ensure that the Land and Communities Commissioner works more coherently with an updated Scottish Land Commission – **we strongly support amendments 178 and 181 in the name of Michael Matheson.**

In addition to the amendments above, **we strongly support the following amendments** which seek to address on-going issues in the ownership and management of land in Scotland:

- Reform of Land and Buildings Transaction Tax - **368, 369, 370 in the name of Rhoda Grant and amendment 466 in the name of Ross Greer**
- To introduce provisions to review the impact of the legislation - **367 in the name of Ariane Burgess**
- Licensing: land on which certain birds may be killed – **374 in the name of Mark Ruskell**
- Provide monitoring of natural capital market developments and their impacts - **395 and 464 in the name of Ariane Burgess**
- Priority access to land for community energy – **467 in the name of Ariane Burgess**
- Community right to buy: reviews, modifications and new rights – **355 in the name of Mark Ruskell and 356 and 357 in the name of Rhoda Grant**
- Introduction of Compulsory Sales Orders – **471 in the name of Ben Macpherson**
- Completion of the valuation roll and levy for vacant land– **481 - 484 in the name of Ross Greer**
- The removal of Non-Domestic Rate relief for shootings – **480 is supported by REVIVE**
- To improve the regulatory function of the Tenant Farming Commissioner - **501 and 502 in the name of Emma Harper**

We strongly reject the following amendments:

- **27 in the name of Tim Eagle** which seeks to remove the Scottish Outdoor Access Code.
- **28 in the name of Tim Eagle** which seeks to remove deer management provisions
- **404 in the name of Rachael Hamilton** which seeks to remove the obligation for new landowners to produce a Land Management Plan (LMP) for 10 years.

Briefing on Stage 2 amendments

Introduction: The purpose of land reform

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

This is a pressing issue for the Scottish Parliament to address as who owns land in Scotland has a direct impact upon the opportunity for economic development and wealth generation, and how the benefits of that are spread or alternatively extracted to benefit only a few.² More people and local communities owning land in Scotland ensures that more democratic and more enduring decisions about land management are made and that more of the people of Scotland are involved in the significant land use change which is needed in coming years to address the multiple crises of climate, biodiversity and growing inequality.

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

Stage 2 amendments

CLS welcomed the Stage 1 report on the Land Reform Bill from the NZET Committee which highlighted 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.

CLS agreed with the Committee's conclusion 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. We welcome the focus within the Stage 1 report and debate on several key areas of concern, which many of the Stage 2 amendments set out below relate to:

1. Public interest in land reform and transfer of large land holdings
2. The transfer test reframed as public interest test including lotting
3. A forward-facing assessment of the buyer within a public interest test, including lotting
4. Aligned and reduced thresholds
5. Addressing aggregate landholdings
6. Sites of Community Significance
7. Land Management Plans
8. Land and Communities Commissioner

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](#)

9. Prior Notification of Sale
10. Land and Buildings Transaction Tax

This briefing focuses on amendments related to these specific issues– that fall within the scope of the bill. The issues above have been re-framed and re-ordered to reflect (as far as possible) the headings and groupings used in the Committee’s ‘Groupings of Amendments’ and thus are (as far as possible) addressed in debating order.

1. Public interest considerations on the face of the Bill

Land reform as a process interferes with private property rights. In order to do that legally and proportionately land reform legislation must engage with the public interest. The ‘public interest’ is a widely used term in Scottish and UK legislation – with over 200 mentions in primary legislation, including existing land reform legislation which centres the public interest in Ministerial approval of community bodies, registration of interests and Part 3a and Part 5 Rights to Buy.³

The concept of the public interest is also widely accepted in international law as research by James Mure KC and Dr Kirsteen Shields has shown.⁴ It also forms an integral part of the protection of private property within the European Convention of Human Rights (ECHR), Article 1 Protocol 1 (A1P1) – ‘No one shall be deprived of his possessions except in the **public interest**’.⁵ Parliament and Government can interfere with that right in particular circumstances which must be provided for in law, must be in pursuit of a legitimate aim, and be proportionate. These circumstances are determined by a Public Interest Test. Courts are led by what Parliament and Government set out as public interest considerations.⁶

In this legislation questions of addressing the public interest in the ownership of land have inexplicably been avoided, with a ‘transfer test’ and lotting decisions being determined by the impact of that specific landholding upon ‘community sustainability’ – a concept **implicitly dealing with the public interest but which remains poorly defined with no legal precedent**. As such centring the public interest rather than ‘community sustainability’ is a far stronger legal position and is likely to establish clearer precedent to avoid future legal challenge – as research for both the Scottish Government and SLC have made clear.⁷

This raises the question as to why the Government have not explicitly engaged with public interest considerations, despite Scottish Land Commission (SLC) recommendations and the consultation clearly

³ See [Legislating for a public interest test in land sales, transfers, and management – Community Land Scotland](#), Annex 1, p.31 and research by the SLC - [Balancing rights and interests in Scottish land reform](#).

⁴ [A Review of Evidence on Land Acquisition Powers and Land Ownership Restrictions in European Countries](#) and [Balancing rights and interests in Scottish land reform](#).

⁵ [European Convention on Human Rights](#), p.33.

⁶ These remarks are taken from discussions with Prof Katie Boyle, Professor of Human Rights, University of Strathclyde, 20/08/2024

⁷ [A Review of Evidence on Land Acquisition Powers and Land Ownership Restrictions in European Countries](#) and [Balancing rights and interests in Scottish land reform](#).

framing a public interest test. As it stands the Bill provides little clue or definition as to relevant public interest considerations in the ownership of land. The Bill needs to consider the public interest in both the sale, ownership and management of land.

The list of public interest considerations underpinning both any ‘test’ at the point of sale and Land Management Plans (LMP) should be on the face of the Bill. Having the list of public interest considerations in owning and managing land will add coherence and predictability to the mechanisms in the Bill, ensuring landowners and others with an interest in the land understand the basis of LMPs and any test on a transfer. Explicitly naming the public interest considerations on the face of legislation as proposed in the Stage 2 amendments will add clarity and certainty to existing and future land reform legislation as well as for the landowners, communities and public bodies that engage with land reform measures.

CLS strongly supports amendments 150, 151 and 152 in the name of Michael Matheson, 310 in the name of Ariane Burgess and 339 in the name of Rhoda Grant.

2. Transfer test becoming a Public Interest Test

In determining the benefits of introducing a Public Interest Test, rather than the current undefined ‘transfer test’ the following points should be considered:

- a) A public interest test (PIT) is a much more effective means of diversifying landownership than a transfer test
- b) The transfer test based on ‘community sustainability’ is legally weak and vaguely defined which restricts its utility and applicability
- c) The public interest (not community sustainability) is the justification for any government to interfere with property rights – it has a strong existing precedent in Scotland and internationally
- d) The Scottish Land Commission (SLC) have produced detailed research and guidance which details how and why a public interest test would work
- e) A public interest test was a key part of the Land Reform Bill consultation, and a version of a PIT featured in the SNP, Green and Labour 2021 party manifestos⁸

The introduction of a mechanism at the point of significant land transfer to assess whether the landownership may be excessively concentrating power is a welcome proposal. However, **the introduction of a ‘transfer test’ in the draft Bill is a disappointing watering down of a meaningful Public Interest Test (PIT)**, as has been proposed by the Scottish Land Commission over

⁸ [Scottish National Party Manifesto 2021 : Scottish National Party : Free Download, Borrow, and Streaming : Internet Archive](#), p.15, [Scottish Greens 2021 Manifesto Full web version.pdf](#), p.43 and [Scottish Labour Manifesto 2021 : Scottish Labour : Free Download, Borrow, and Streaming : Internet Archive](#), p.108.

the past five years, and which the Scottish Government had previously committed to. The principle of a PIT was strongly supported (72%) in response to the government's consultation on this matter.⁹

The 'community sustainability' approach in the transfer test is too narrow and misses, for example, biodiversity and net zero public interest objectives in relation to a specific piece of land. Also, focusing on community sustainability eliminates the model being applicable to landholdings which no longer have active or viable communities living on or near them, which is not necessarily in line with the public interest and undermines the Government's own objectives around tackling depopulation.

The use of 'community sustainability' indicates a wider issue within current Scottish land reform legislation which is only focused on a community-centric view on land, rather than a broader public interest approach to landownership. Twenty-one years of community-led land reform has delivered great opportunities for community-led sustainable development but has not changed the concentrated landownership pattern. Scotland needs a root and branch approach to land reform which addresses structural, public interest considerations, not just community sustainability.

CLS strongly supports amendment 174 and 174B in the name of Mercedes Villalba

3. A Public Interest Test – with a forward-facing assessment of the buyer

The transfer test does not make any assessment of the wider public interest in landownership, nor assess whether the buyer or their plans for the land meets the public interest.¹⁰ Successive Scottish Governments have made consistent commitments to diversifying landownership patterns in Scotland. As it stands the transfer test is not an effective mechanism for achieving this.

In order for a Public Interest Test to be truly impactful it will need to move beyond an assessment of the landholding, as detailed in the current 'transfer test', to also make **a forward-facing assessment of whether the landholding *and* the incoming landowner's land management principles will meet the public interest.**

This will enable incoming buyers to engage with the existing LMP on the landholding, the public interest considerations for owning land in Scotland as well as starting to engage with the LMP process as a necessary part of their ownership. This measure importantly adds coherence and connection between otherwise disconnected parts of the Bill, namely the 'test' at point of transfer and Land Management Plans.

By having a PIT which assesses whether the landholding *and* the proposed purchaser are working in the public interest, means that a forward-facing burden can potentially be placed on the transfer (such as lotting), rather than the currently proposed assessment and burden being placed on the seller. **Research by James Mure KC details that there is not a right to acquire land, but there being a right to**

⁹ The majority of respondents, 72% of those answering the question, agreed with the application of a public interest test to transactions involving large-scale landholdings, [Land Reform in a Net Zero Nation: Analysis of responses to the consultation exercise](#), p.99.

¹⁰ CLS have published research which details when, how and why a public interest test on land could be applied in Scotland: [Legislating for a public interest test in land sales, transfers, and management – Community Land Scotland](#)

dispose of land.¹¹ Therefore a forward-facing burden on the seller, rather than the buyer, is a stronger basis for interference with the A1P1.

CLS strongly supports amendments 174, 174A, 174B, 459 in the name of Mercedes Villalba

4. Aligned and reduced thresholds

Aligning the thresholds across the measures in the Bill would add coherence and predictability to the measures being introduced and ensure equity for landowners who will produce LMPs and potentially engage with a test at the of transfer.

However CLS propose an aligned threshold of 500ha rather than 1,000ha, meaning that 2,025 landholdings rather than c.700 will be under a requirement to produce LMPs and 17 rather than 8 transactions for a transfer test.¹² 500ha still protects the vast majority of family farms as 96.4% of agricultural holdings in Scotland are under 500 hectares in size.¹³ Many of the landholdings which would be caught by the lower 500ha threshold will already be producing LMPs, as is already good practice amongst conservation organisations, public forestry, responsible private landowners and community landowners.

Thresholds should also be able to be amended through secondary legislation, once monitoring and evaluation of the impact of the legislation has been made.

Furthermore, both LMPs and the ‘transfer test’ **should both be underpinned by the same public interest considerations on the face of the Bill which would add** greater proportionality and predictability to these processes. This would have the benefit of ensuring that landowners over the threshold are producing LMPs in-line with public interest considerations which should help ensure that the landholding and their land management are well placed to engage with a ‘transfer test’ based on the same public interest considerations should they choose to sell. This would also provide greater clarity for all stakeholders on what the public interest considerations underpinning landownership in Scotland are.

If the Land Reform Bill is to deliver meaningful change, then the new provisions within the Bill need to apply to a proportionate yet significant number of landholdings and transactions. 500ha is still a significant amount of land which can deliver a large amount of economic, social and environmental benefit. Land transfers are also relatively infrequent. If we want Scotland’s land to be owned and managed in the public interest, then assessing on average 17 transactions a year to see if they meet the public interest hardly seems excessive.

¹¹ [Balancing rights and interests in Scottish land reform](#), p.15.

¹² [Financial Memorandum accessible \(parliament.scot\)](#) and [Advice on Part 1 of the Land Reform Bill from the Scottish Land Commission](#), p.6.

¹³ [Written question and answer: s6w-10506 | Scottish Parliament Website](#)

CLS strongly supports amendments 4- 9 and 310 in the name of Ariane Burgess, amendments 174B in the name of Mercedes Villalba, amendment 182 in the name of Bob Doris and 339 in the name of Rhoda Grant

5. Composite, aggregate and complex ownership structures

CLS agrees with the Scottish Land Commission that aggregate holdings and complex ownership structures pose challenges for transparency and applying the provisions in the Bill.

CLS suggest that the considerable issue of aggregate holdings which exceed the thresholds and contribute significantly to the concentration of landownership in Scotland need to be addressed in the following ways:

- Significant landowners often already have different companies owning different bits of land, and multiple partnerships like Gresham House. However, Companies House could be used to look at the holding company which is connected to the different companies holding land to try and address this issue. An additional means of closing this loophole would be to have a meaningful public interest test which assessed both the landholding and the prospective buyer
- **In 44D, 46K and 67H “contiguous” should be removed** so that aggregate national landholdings are included within LMP requirements and the transfer test. For example, funds managed by Gresham House Ltd partnerships own a significant amount of Scottish land (53,775 ha).¹⁴ Yet due to their fragmented landholdings, none are over 3,000ha and only a handful are over 1,000ha.¹⁵
- An additional means of addressing local aggregation and monopoly power, as well as closing the loophole of large landholdings severed by infrastructure or within the same geographic area but not directly contiguous would be to introduce a fixed geographic limit within which landholdings under the same ownership are considered contiguous

CLS strongly support the amendments 43, 122 and 140 in the name of Mercedes Villalba and amendment 127A and 127B in the name of Mark Ruskell

6. Sites of Community Significance – including Scotland’s villages, town and cities

There is a longstanding and unambiguous policy recognition by the Scottish Government and Parliament that land reform encompasses both the urban and rural contexts. The current draft Bill will exclude urban Scotland and other settlement types – unless situated on a ‘large landholding’. It will not provide any mechanisms to ensure that the public interest is considered in urban land management or urban land sales. This is a pressing issue in urban and peri-urban areas which are often blighted by vacant and derelict land, absentee and corporate landowners and widespread land banking and speculation. **67% of respondents in the Bill consultation were in favour of the inclusion of urban Scotland.**

¹⁴ [Who Owns Scotland 2024 \(a preliminary analysis\) - Land Matters \(andywightman.scot\)](#)

¹⁵ [Large-scale Rural Land Sales 2020 – 2022 - Land Matters \(andywightman.scot\)](#)

Sites of community significance can be proactively identified parts of landholdings, buildings or smaller sites which have a significant impact upon the local area. We propose that they can be identified through Land Management Plans, Local Place Plans, Community Council resolutions and any area under Community Right to Buy (CRtB) registrations. The inclusion of sites of community significance would mean that the public interest test/transfer test and prior notification mechanisms could apply to important sites in Scotland's towns, cities and villages, as well as the large landholdings currently within the thresholds.

CLS strongly support amendments 11, 42, 106, 112, 118, 121, 130, 139, 168 in the same of Michael Matheson

7. Land Management Plans (LMP)

The introduction of compulsory Land Management Plans is welcome, if they result in robust mechanisms for supporting better land management in the public interest, can impact damaging land management practices, and provide new routes to diversified ownership in the most extreme cases of poor land management.

Land Management Plans could be an effective tool for making Scotland's land work in the public interest and, in some circumstances, lead to diversifying landownership, however the proposals in the Bill need to be strengthened.

The areas of proposed amendment in the Bill below are strongly supported by Community Land Scotland:

- Fines for breaches should be set as high as possible within existing statutory limits these fines should be recurring annually for repeated non-compliance with statutory duties – **Amendments 89 and 97 in the name of Bob Doris**
- Subsidy and statutory consents cross-compliance is essential as the SLC have identified¹⁶ - amendments - **412 and 413 in the name Mark Ruskell**
- There should be an escalating process of sanctions for breaches of duty in LMPs (producing a plan, undertaking community engagement, that engagement informing the plan) which includes cross-compliance but ultimately ends in a public interest test and the means for the ownership to be changed through a Compulsory Purchase Order – **amendment 347 in the name Rhoda Grant**
- A central repository for LMPs should be established which aligns with an existing land-based register rather than creating a new system to ensure land data is kept coherent and easily accessible – **amendments 17 and 31 in the name of Bob Doris**
- There should be light touch monitoring of the implementation of LMPs to ensure they are helping drive land management change – **amendment 30 in the name of Bob Doris**

¹⁶ Statutory consents could include planning, agricultural and forestry permissions etc.

- The LMP needs to identify how community engagement has informed the Plan – **amendment 20 in the name of Bob Doris and 328 in the name of Rhoda Grant and 334 in the name of Ariane Burgess**
- Reporting of breaches needs to be open to more local residents can report breaches as individuals. This process should be anonymised if requested, with the point of anonymisation being the reporting of the breach to the landowner not from the complainant to the Commission to prevent vexatious claims – **amendment 345 in the name of Rhoda Grant**
- There needs to be an element of succession in LMPs so that the Plan is attached to the land, with incoming landowners needing to engage with the existing LMP. This could help prevent duplication of work for landowners and communities as well as adding coherence to a forward-looking public interest test which assesses the landholding *and* the incoming buyer's land management principles. Succession requirements are already written into existing regulation for natural capital projects or long-term forest management plans where existing land use needs to be maintained – **amendment 32 in the name of Bob Doris and amendment 317 in the name of Ariane Burgess**

In addition, and complementary to the LMP amendments above, CLS strongly supports all of the following amendments:

Amendments 16, 17, 20, 22, 30, 31, 32, 33, 70, 83, 89, 91, 97, 98, 99, 100, 107 in the name Bob Doris

Amendments 412 and 413 in the name Mark Ruskell

Amendment 317, 334, 337 and 338 in the name of Ariane Burgess.

Amendments 335, 339 and 340, 345, 346, 347 in the name of Rhoda Grant.

8. Prior Notification of Sale

The following important steps need to be taken to simplify and clarify the process so that it is fit for purpose and communities are able to meaningfully use this mechanism:

- A single universal 120-day prohibition on sale rather than 70 days – CRtB processes currently take many months and communities need a reasonable period of time in order to progress their applications **amendment 350, 352, 353 and 354 in the name of Rhoda Grant**
- 28-day time frame for Scottish Government (SG) issuing Section 34 letters will be of assistance, but needs to be alongside a longer prohibition of sale will allow time for communities to do the administrative and fundraising work necessary - **amendment 351 in the name of Rhoda Grant 351**
- There should be an expanded list of organisations who will be notified to include Community Councils, Development Trusts and any other community-focused body of which Ministers are aware
- If the Prior Notification mechanism is going to be agile and effective it needs to accept that interested community groups are unlikely to be CRtB compliant ahead of time and that they may not have a clear public record of interest in the land. This is especially problematic when there is a monopoly landowner, who has held the land for many years and there seems to be little likelihood it will come on the market – **amendment 349 in the name of Rhoda Grant**

As such CLS strongly supports amendments 349 – 354 in the name of Rhoda Grant

9. Land and Communities Commissioner

The introduction of a new Land and Communities Commissioner (LCC) is potentially beneficial, although CLS would prefer the powers were vested in the Commission and existing Land Commissioners, albeit with the LCC taking the lead on behalf of the Commission.

The LCC appears to be based upon the existing Tenant Farming Commissioner, however the LCC is taking on more of an enforcement and regulatory function than the mediatory role of the Tenant Farmer Commissioner, as such there need to be a number of changes to the role to reflect this.

To ensure greater coherence of action between the LCC and the Commission and to ensure corporate accountability, CLS recommend the strengthening and codification of the new Commissioners role.

Therefore, CLS strongly support amendment 178 in the name of Michael Matheson.

Updating the functions of the Commission

Furthermore, the regulatory function of the SLC is expanding under the Bill and there is a key opportunity to recognise the important role of the Commission and Scotland's land in addressing pressing public priorities, and this should be recognised in an updating of their functions.

Therefore, CLS strongly support amendment 181 in the name of Michael Matheson.

10. Land and Buildings Transaction Tax to be extended for significant land purchases

There is a clear and legitimate precedent for governments to use taxation to seek to alter behaviours (smoking, alcohol, car fuel, etc). In relation to land, it is important to note that the Scottish Government has already introduced a premium on second home purchases to create a disincentive to such transactions.

CLS propose that the LBTT be amended to include an escalating supplement on sales of land meeting specific criteria:

- There could be a sliding scale of supplement by bands of hectareage across all ownership once over a 500ha threshold – consistent with a reduced threshold to 500ha for the 'transfer test' and for compulsory Land Management Plans
- Amended LBTT on land sales would follow the precedent of the Additional Dwelling Supplement for second homes – a similar mechanism could be applied to individuals who own, in aggregate, above the thresholds through multiple landholdings with rates escalating to punitive levels as the hectareage increases

- We note that the Scottish Land Commission and Future Economy Scotland have recommended similar amendments to LBTT¹⁷

Alongside this proposed change CLS also support:

- A 'light touch' review as Government has indicated should happen in Spring 2025, which includes LBTT delivering land reform outcomes
- An amendment to exempt community right to buy purchases from LBTT (as crofting community right to buy are) as this could see public money circulating in unnecessary ways

As such CLS strongly supports amendments 368, 369, 370 in the name of Rhoda Grant and amendment 466 in the name of Ross Greer as an important means of beginning to use taxation to help deliver land reform outcomes.

¹⁷ [Land Reform and Taxation: Advice to Scottish Ministers \(landcommission.gov.scot\)](#), p.11 and [Land Reform for a Democratic, Sustainable and Just Scotland | Future Economy Scotland](#), p.5.