Land Reform (Scotland) Bill

MSP BRIEFING FOR STAGE ONE DEBATE 26 MARCH 2025

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This briefing highlights a few key issues that could usefully be raised in the Stage One debate on the Land Reform (Scotland) Bill. The issues are restricted to Part I of the Bill.

CONTEXT

One week ago I published an analysis of who owns Scotland in 2024. It showed that the pattern of private rural landownership is becoming more and more concentrated in fewer and fewer hands. [1]

- 421 landowners own 50% of the privately-owned rural land (440 in 2012);
- 921 landowners own 60% of the privately-owned rural land (989 in 2012);
- 2588 landowners own 70% of the privately-owned rural land (3161 in 2012).

Many of the landowners who are responsible for this growing concentration own land of a scale in excess of the thresholds defined in the Bill but will nevertheless be exempt from their provisions because their landholding is not contiguous and consists of a portfolio of holdings each less than the defined threshold.

This is the context for any land reform measures designed to diversify the pattern off land ownership. So far, over 25 years of devolution we have failed.

OUTCOMES

Part I of the Bill introduces two mechanisms to influence the pattern of landownership.

The first (Sections 2 and 3) is an amendment to the Community Right to Buy provisions of the Land Reform (Scotland) Act 2003. This requires owners of landholdings in excess of 1000 ha to notify Ministers of any sale of land so that any community body that might be interested can, in turn, be notified, and apply for a late registration under the terms of the 2003 Act. In practice, they bring sales of land that are not advertised on the open market within the scope of the late registration provisions.

The second (Sections 3 and 4) requires anyone selling landholdings of over 1000 ha to notify Ministers so that they have the option of requiring that the sale be lotted.

There has been a lack of scrutiny on the outcomes expected from Section 2-5 of the Bill. The Bill introduces significant administrative complexity and associated expense on landowners and Scottish Ministers. Ordinarily, such complex administrative burdens should only be introduced where the outcomes justify them. In my view there is no such justification for them in this Bill.

The outcomes anticipated from the prior notification and lotting procedures in the Bill have not been outlined by Scottish Ministers and received very little scrutiny the Net Zero, Energy and Transport Committee's report.

My analysis suggests that the impact of these provisions on the pattern of landownership in Scotland will be vanishingly small at best and zero at worst. [2] Importantly, no amount of amendments at Stage 2 or 3 will change the underlying mechanisms being relied upon in the Bill.

Please focus on the mechanisms and ask whether they will change anything very much at all.

NOTIFICATION of SALES 1

Under the provisions of Section 2 to 5, proposed sales of land forming part of large landholdings must be notified to Scottish Ministers. However, Scottish Ministers are the largest landowner in Scotland, owning 728,000 hectares of land - almost 10% of rural Scotland. Scottish Ministers have sold and bought many sales that are within the scope of the Bill in recent years.

There is a clear conflict of interest when a decision-maker (Scottish Ministers) is making decisions about the proposed sale of land that they themselves own. The Committee has failed to address this point in its Stage One report.

NOTIFICATION of SALES 2

Any sale of land from within a landholding of over 1000ha must be notified to Scottish Ministers under Sections 2-3 of the Bill. Under certain circumstances, Ministers may allow a community body to lodge a late registration with a view to exercising their right to buy under Part 2 of the 2003 Act.

However, this means that the following sales are all within scope

- a sale of 100 square metres to improve access to a builders yard
- the sale of a domestic dwelling to a tenant who has negotiated to purchase it
- the sale of croft land being carried out under statutory right to buy powers contained in the Crofters (Scotland) Act 1993.

In none of these circumstances is it appropriate for the purchaser to have Scottish Ministers interfere in such sales. In particular, the Bill sets up a clear legal conflict with powers in the Crofters (Scotland) Act 1993 whereby the 1993 Act confers a

right to buy on the crofting tenant, whilst at the same time, the Bill defeats this right without amending the Crofting (Scotland) Act 2003. This is a recipe for chaos.

Further confusion will arise where a community body or Scottish Ministers owns crofting land and agree to a purchase under the Crofting (Scotland) Act 2003 and will themselves then be involved in the administrative procedures under this Bill to provide the community body with a right to buy land they already own.

MANAGEMENT PLANS

Section 1 of the Bill is the only part of Part I that should be enacted. It provides for management plans for large-scale landholdings. Much improvement should be made to the arrangements outlined in the Bill, namely,

- Firstly, the timescale for management plan should be extended from five years to anything between 20 and 50 years.

- Secondly these plans to be registered against the title meaning that they become binding on successors in a similar way to how the Forest Dedication Scheme used to work.

- Thirdly, there needs to be some measures to ensure implementation of these plans.

FURTHER INFORMATION

You can find further thoughts on the Bill including my written evidence and blogs in links here;

https://andywightman.scot/category/land-reform-bill-2024/

FOOTNOTES

[1] See https://andywightman.scot/2025/03/who-owns-scotlands-2024/

[2[See, for example this blog and previous ones linked https://andywightman.scot/2024/04/land-reform-scotland-bill-5/