

Mairi Gougeon MSP
Cabinet Secretary for Rural Affairs, Land Reform and Islands
The Scottish Government
St Andrew's House
Regent Road
EDINBURGH
EH1 3DG

By email to CabSecforRALRI@gov.scot

23rd October 2025

Dear Cabinet Secretary,

Land Reform (Scotland) Bill

This letter represents an unlikely but united alliance. Don Macleod is a solicitor dealing with rural property and who acts for many land owners who will be affected by the Bill once it is passed. Don would not identify himself as being in favour of the general policy of Land Reform. Andy Wightman, of course, holds widely known views on the benefits of Land Reform. The joint nature of this letter – from two people with differing perspectives on the debate – represents strongly held views that the Bill, as it stands and in the proposed Stage 3 amendments, poses serious practical and legal challenges that require further scrutiny.

What follows is not intended to question the policy intentions behind the Bill nor challenge whatever measures Parliament deems appropriate to give effect to them. Some of the concerns are set out below, and they relate to the effectiveness of the measures, the practicality of implementation, and their proportionality. There are other concerns.

1. Definitions of Large Landholder

Stage 3 amendments to the Bill include the redefinition of what constitutes a large landholding by making references to the Register of Persons Holding a Controlled Interest in Land. The details is set out in a new Schedule 1A in amendment 231.

Don has written an article which sets out the high level concerns, which is available [here](#). There are concerns around definitions and interpretation, and more seriously that the measures will severely undermine legal process.

2. Record Keeping under Section 46A

Section 46A requires Ministers to keep a record of persons who wish to be notified of any possible transfers to which Section 46K applies. There is no qualification or restriction to those persons who may wish to be notified. They can be anyone anywhere in the world. There could potentially be thousands of such people seeking notification of potential transfers. We have doubts as to the proportionality of this provision given that such persons are not required to demonstrate any meaningful link with the land which is proposed to be transferred.

3. Late Registration Process

The late registration process set out in Section 39ZA is different to that set out for a late registration under the Land Reform (Scotland) Act 2003. This means that late registrations will be assessed differently depending on whether they are made under existing procedures under the 2003 Act or the new procedures set out in this Bill.

There is thus scope for discriminatory effect on landowners who are broadly in an analogous position. Further exploration of this point is set out in Andy's blog posts [here](#) (and by reference [here](#))

4. Conflict of Interest of Scottish Ministers

Under the provisions of the Bill on prior notification and lotting, Scottish Ministers will make decisions about land they themselves either own or intend to acquire. This raises a *prima facie* conflict of interest which has not been adequately scrutinised

By contrast the Land and Communities Commissioner must not be an owner of a large landholding for precisely the reason that a conflict of interest may arise if they are required to make decisions about their own landholding.

On that basis, there is a concern that the proposed law around lotting could be *ultra vires*.

Recommendation

In light of the above and the potential impact on the practical implementation of the Bill and potential legal issues arising, we recommend that you consider using powers under Rule 9.8 of Standing Orders (as set out in 5D and 6) to either adjourn the Stage 3 debate on the Bill in order to consider these matters further and/or to refer these and any other matters that may give rise to uncertainty back to the Committee for further scrutiny. This is particularly relevant to point 1 since these are new proposals that have not been subject to any detailed scrutiny, point 1 being hugely consequential.

We would be happy to discuss the contents of this letter and expand on any point of concern. This open letter is sent in a constructive spirit to help achieve the best outcomes arising from the Government's policy aims.

Yours sincerely

Andy Wightman

Don Macleod