

Land Reform (Scotland) Bill

Stage 3 Briefing from Andy Wightman
26 October 2025

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This briefing focusses on Sections 2-5 of the Bill.

OUTCOMES

The Bill is a government bill introduced to Parliament in March 2024 by the SNP and Scottish Greens coalition.

In the Ministerial Foreword to the consultation on the Bill, the then Cabinet Secretary, Màiri McAllan stated that,

“We are driving forward reform to historically iniquitous patterns of land ownership, but doing so with an eye to contemporary challenges and future opportunities” [1]

In the News Release accompanying the publication of the Bill, the Cabinet Secretary, Mairi Gougeon claimed that,

We do not think it is right that ownership and control of much of Scotland’s land is still in the hands of relatively few people. [2]

Opening the Stage One debate in parliament, the same Minister went on to say,

In Scotland, we have one of the most concentrated patterns of land ownership in the world, with 421 landowners owning 50 per cent of privately owned rural land. We are an outlier in comparison with Europe, where more diverse land ownership is the norm. That long-standing unfairness and the negative impacts on our rural communities have previously been raised by the Scottish Land Commission and others. Scotland’s land must be an asset that benefits the many, not the few, and it must play a leading role in sustaining thriving rural communities, tackling the climate change and environmental crises and continuing sustainable food production. [3]

We have heard this rhetoric many times before over the 25 years of the Scottish Parliament and even before. In 1998, the then Secretary of State for Scotland, Donald Dewar, claimed that the then proposed community right to buy,.

“would effect rapid change in the pattern of land ownership” [4]

If you take nothing else away from this briefing, take this.

This Bill will ***do next to nothing*** to reduce or have any influence on the pattern (***whether concentrated or otherwise***) of private landownership in Scotland. MSPs can pass all the Stage 3 amendments they like to vary the scope, criteria, qualifications and definitions of parts of the Bill but ***it will make no meaningful difference to the distribution and ownership of land in Scotland.***

Why?

Because the core means by which this Bill is intended to make any difference is through the triggering of possible applications for late registration under the (modified) provisions of Part 2 of the Land Reform (Scotland) Bill 2003 and by lotting decisions.

Note that,

- the late registration mechanism has not been used successfully since 2017;
- it is restricted to community bodies as defined by the 2003 Act (as amended);
- it provides no opportunities at all to businesses, individuals, social enterprises, sports associations, co-operatives or common good funds;
- it is only triggered by proposed sales not by gifts, inheritance or court orders;
- lotting decisions do not affect the ability of the new owners of lots to subsequently sell them in such a way as to enable one buyer to acquire all the lots (despite a prohibition on this in the first instance).

The late registration mechanism was designed to be used only in exceptional circumstances. There is and has not ever been anything stopping

communities across Scotland from registering an interest in land in a timeous fashion prior to land being exposed for sale.

The Community Right to Buy as a whole, never mind the narrow scope of the late registration ***has never, and will never, achieve any meaningful change in Scotland's concentrated pattern of private landownership.***

Lotting is unlikely to have much impact either due to the fact that land is already lotted where it is financially advantageous to do so and that individually acquire lots can be amalgamated after the lotting decision has taken effect.

This is all exacerbated by the fact that this pattern is growing more concentrated. In 2024,

- 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)

See Note [5] for source

Moreover, this trend is being driven by ***existing landowners*** acquiring more and more land leading to large-scale portfolio landholdings that are outwith the scope of the Bill.

The table below shows the extent of land sold in 2020-2023 (row 3) and the extent and proportion of that total that was acquired by new owners (row 1) and existing owners (row 2). Overall, the majority of such land was acquired by existing owners expanding the extent of their landholdings (row 4). The vast majority of these acquisitions are unaffected by the provisions in this Bill.

Large scale land sales >500ha 2020-2023

		2020 (ha)	2021 (ha)	2022 (ha)	2023 (ha)	TOTAL (ha)
1	New Owner	24,659	4794	13,270	29,467	72,190
2	Existing Owner	21,476	19,261	19,298	25,939	85,974
3	Total	46,135	24,055	32,568	55,406	158,164
4	% Existing Owner	46.6%	80.1%	59.3%	46.8%	54.4%

CONCENTRATION vs SCALE

The Bill presumes that scale of landownership (the extent of land owned) is a suitable proxy for concentration.

It is not.

Neither is it a good proxy for any assessment of likely impact on communities with the large majority of large landholdings being at some distance removed from most of Scotland's population.

As shown above, portfolio landownership - aggregations of landholdings across Scotland - are driving concentration and yet are outwith the scope of the Bill.

Furthermore, in a recent blog I highlighted the growing takeover of key parcels of land by one owner in the village of Braemar. [6] Setting aside whether the impact is positive or negative, there has been an impact on the community. But because the land extends only to 3.7 ha, ***it is outwith the scope of the Bill.***

LEGAL ISSUES

The Bill introduces complex and bureaucratic procedures governing any proposed transfer of ownership of any part of a large landholding (over 1000 ha in extent). If such procedures were to deliver meaningful change then there might be case for them. But given the vanishingly small likelihood of any change at all due to the particular nature of the trigger mechanism (late registration and lotting) and in the face of the concentrating trends highlighted above, there seems little justification for the increased administrative costs on both the private and other public sectors.

Please see the joint letter appended to this briefing from myself and Don Macleod, Partner and Head of Land and Property at Turcan Connell for some further detailed legal provisions in this Bill that require further scrutiny in relation to the definition of large landholdings, persons to be notified of proposed land sales, the potential discriminatory effect of the new late registration provisions and the conflict of interest of Scottish Ministers.

Many of these procedures still lack clarity. The Bill as introduced gives regulation making powers to Ministers to change the definition of land to which management plans, prior notification and lotting apply.

Typically these could be used to increase or decrease the 1000 ha threshold. But they are so wide-ranging that a future government that did not share the policy intentions of the Bill could use them to increase the threshold to level (eg 250,000 ha) and thus effectively render the Part 2 provisions null and void ***as they would apply to no landholdings at all.***

Stage 3 amendments 152, 167 and 195 go way beyond this already significant power and allow Ministers to introduce regulations designed to “***clarify***” the definition of a large landholding.

This is an unusual legislative provision which has only been used in a total of 2 UK statutes and 5 Acts of the Scottish Parliament. Routinely it is the job of the Courts or amending legislation to ***amend*** definitions in law rather than Ministers ***clarifying*** through secondary legislation.

MSPs should ask the Minister why it is considered necessary to have the clarification power when ordinarily definitions of what consists a large landholding (or anything else for that matter) should be crystal clear in the Bill at the outset and before it is enacted.

The word clarify is also in parenthesis which has never occurred before.

Why?

RECOMMENDATIONS

1. Parliament should invite the Cabinet Secretary to adjourn the debate on Stage 3 of the Bill scheduled for 4 November 2025 to allow more time for detailed scrutiny of a) the issues above, b) to the matters highlighted in the joint letter appended to this Briefing, and c) to any other issues which the Government wishes to give themselves the opportunity to clarify before (rather than after) the Bill has been enacted.
2. Parliament should consider carefully whether it believes that the limited impact of this Bill justifies the complex administrative procedures set out in Parts 2-5 of the Bill or whether they should be removed.

This consideration should be applied ***irrespective of whether one agrees with the policy intentions or not.*** There are no Stage 3 amendments lodged to leave out Section 2 and 3 but there are amendments (2 and 3) which leave out Sections 4 and 5. This question can be revisited if further scrutiny can be given to the Bill as recommended in the joint letter referred to above.

3. The proposals in Amendments 152, 167 and 195 should be challenged and, if passed, then so too should Edward Mountain's amendments 39 51 & 75 which require greater parliamentary scrutiny of any such draft regulations.

In conclusion, in my oral evidence to Committee, I argued that,

It would be irresponsible of Parliament to impose new, complex, legalistic and bureaucratic mechanisms on the people of Scotland that will not deliver the outcomes that ministers say that they will. That is just making bad law. [7]

Nothing that has transpired since has caused me to change my mind.

NOTES

[1] <https://www.gov.scot/publications/land-reform-net-zero-nation-consultation-paper/documents/>

[2] News Release 14 March 2024 <https://www.gov.scot/news/land-reform-bill/>

[3] Official Report 26 March 2025. Col. 34

[4] Identifying the Solutions. Scottish Office. 1998. Recommendation Land Ownership 9

[5] Who Owns Scotland 2024. <https://andywightman.scot/2025/03/who-owns-scotlands-2024/>

[6] See Land reform and the gentrification of Braemar. <https://andywightman.scot/2025/09/land-reform-and-the-gentrification-of-braemar/>

[7] Official report Net Zero, Energy and Transport Committee 3 December 2024, Col. 64. <https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=16140>

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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