



The Church of Scotland

Official Response

Subject: Land Reform (Scotland) Bill
Requested by: The Scottish Parliament Net Zero, Energy and Transport Committee
Date: 20 May 2024
Prepared and agreed by: Public Life and Social Justice Programme Group

The Church of Scotland seeks to inspire the people of Scotland and beyond with the Good News of Jesus Christ through enthusiastic worshipping, witnessing, nurturing and serving communities.

The Church of Scotland is one of the largest organisations in the country. We have around 280,000 members, with more regularly involved in local congregations and our work. We have around 650 ministers serving in parishes and chaplaincies, supported by both centrally and locally employed staff.

Most of our parishes are in Scotland, but we also have churches in England, Europe and afield. The Church of Scotland plays a pivotal role in Scottish society and works with communities worldwide.

This response has been prepared and agreed by the Church's Public Life and Social Justice Programme Group in consultation with the Church of Scotland Law Department and Church of Scotland General Trustees.

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Part 1 of the Bill

General Purpose in Relation to Large Landholdings

1. Do you agree that there is a need for further land reform to address issues around large landholdings in Scotland?

The Church of Scotland has been a long-time supporter of the struggle for a more equitable sharing of land, and it is our desire to see a flourishing of relationships between residents, community organisations, businesses and those who have responsibility as stewards of the land through their ownership or involvement in control.

This approach is informed by our understanding of our faith and scripture, and that ultimately we believe that “The earth is the Lord’s and all that is in it” (Psalm 24) and it is our duty to promote just and fair sharing that respects all of God’s creation.

We are in the position of recognising the need for land reform in Scotland while, at the same time, being a landowner. We acknowledge the need to tackle unequal landownership and promote social justice and environmental protection. Equally, we accept that our stewardship of the land and care for the people who depend on it for homes and livelihoods will inevitably be affected by changes to civil law.

2. Will the proposals in this Bill fulfil the Scottish Government’s objectives in relation to land reform?

Partially, but has this Bill missed an opportunity to take forward current thinking across the sector? For example, recommendations from the Scottish Land Commission (Legislative proposals to address the impact of Scotland’s concentration of land ownership) and ideas included in the Scottish Government consultation (Land Reform in a Net Zero Nation). It is also hard to draw a link with the SNP 2021 Manifesto and 2023-2024 Programme for Government in relation to commitments around land reform to promote ‘public interest’ within large-scale land ownership.

3. Do you support the proposal that the Scottish Ministers may, by regulations, impose obligations on landowners to promote community engagement in relation to large landholdings?

Yes, we support this proposal and as an organisation rooted in local community and committed to the common good we hope that our congregations will contribute constructively to engagement processes which impact on their local area.

4. In principle, do you agree that owners of large landholdings should have a legal duty to consult on and publish land management plans?

Yes. We would also suggest that the requirements for land management plans should be included in the Bill and not by granting powers to make regulations. This is an important aspect of the proposals and should be scrutinised and decided on by Parliament in primary legislation, and not through a cursory approval of a statutory instrument at some undefined date in the future.

5. Do you support the process for investigating alleged breaches of community engagement requirements for large landowners set out in the Bill? Do you support the proposed level of penalty for contravention?

[no response]

Section 2

6. Do you support in principle strengthening community bodies’ opportunity to buy large landholdings?

- If you answered “yes”, does Section 2 of the Bill go about this in the right way to address the Government’s aims?
- Do you think that 1,000 hectares is an appropriate threshold?

[no response]

Section 4

7. Do you, in principle, approve of allowing the Scottish Ministers to make a lotting decision in relation to sales of large landholdings?

- If so, do you agree that 1000 hectares is an appropriate threshold?

[no response]

8. Is the proposed process for making a lotting decision appropriate and workable?

[no response]

9. Do the Scottish Government's proposals for a "transfer test" adequately take the public interest into account?

[no response]

Section 6

10. Do you support the creation of the new role of Land and Communities Commissioner?

- If so, are their responsibilities under the Bill adequate/appropriate?

We have not debated or considered the creation of a Land and Communities Commissioner, and so we are neutral about the role and their responsibilities. We are mindful however of the recent Scottish Parliament Finance and Public Administration Committee inquiry into Scottish Parliament Corporate Body -accountable Commissioners (Scotland's Commissioner Landscape: A Strategic Approach), which report is due in June or September 2024. Although the creation of a new Land and Communities Commissioner may not necessarily be accountable through the SPCB, it would be worth studying the recommendations of the report nonetheless. At its simplest: do we have too many Commissioners, and are we in danger of moving responsibility, accountability, initiative and leadership away from Ministers and Parliament (and ultimately citizens through elections) by vesting important responsibilities in such arms-lengths offices? A strategic approach to the creation of Commissioner roles across the public policy sector in Scotland would be highly desirable, and once known it would be easier to assess the merits of the creation of this new role.

Part 2 of the Bill

Section 7

11. Are you satisfied with the broad duty Section 7 of the Bill places on the Scottish Ministers to develop a model lease for environmental purposes, including the definition of "environmental purposes" set out in Section 7?

Noting that although use of a model lease would be voluntary, we suggest that it may be preferable if a model lease template – and the definition of "environmental purposes" be included as part of the Bill or a related schedule. Parliamentary scrutiny and approval (and the opportunity to amend or make suggestions) would be preferable than giving a broad duty on Ministers alone.

Sections 8 and 9

12. Do you agree with the provisions in the Bill extending certain rights to small landholders?

[no response]

13. Do you agree that the Tenant Farming Commissioner's functions should be extended to include small landholders?

[no response]

Section 10

14. Do you agree with repealing Section 99 of the Land Reform (Scotland) Act 2016, and with giving the Scottish Ministers the power to make regulations which modify the requirement for tenants to register their interest in exercising their pre-emptive right to buy?

Yes. The repeal of s.99 of the Land Reform (Scotland) Act 2016 is welcome. The lack of clarity regarding the circumstances under which the right to buy is triggered has long been an issue for landlords and tenants. Regulations to clarify that issue would also be welcome.

Sections 11 to 13

15. Do you agree with the changes to resumption proposed in the Bill?

Resumption is often for very small areas of land required for, for example, an access, a septic tank, an extension to a neighbouring property or a single building plot. One year's notice would be a long period to wait to obtain vacant possession and may prevent these minor transactions or adjustments happening. An exemption for small areas of land would be helpful.

The valuation methodology for compensation purposes requires to be clarified – is the valuer to take into account any potential uplift in the value of the land resumed e.g. if planning permission were obtained or the land has development potential?

Section 14

16. Do you agree with the proposed changes to compensation for improvements for tenant farmers?

[no response]

17. Do you believe that the provisions will better enable tenant farmers to engage in sustainable and regenerative agriculture?

[no response]

Sections 15 to 19

18. Do you agree with the proposed changes in relation to diversification on tenant farms?

[no response]

19. Do you believe these provisions will better enable tenant farmers to engage in sustainable and regenerative agriculture?

[no response]

Section 20

20. Do you agree with the proposed changes to compensation for game damage for agricultural tenants?

[no response]

Section 21

21. Do you agree with the proposed standard claim procedure for compensation at the end of a tenancy?

[no response]

22. Do you agree with granting the Scottish Ministers power to apply the standard claim procedure to any relevant type of compensation?

[no response]

Section 22

23. Do you agree that interest should be payable on outstanding compensation claims?

[no response]

24. Do you agree with the rate of interest set out in the Bill?

[no response]

Sections 23 to 25

25. Do you agree with the changes to rent reviews proposed in the Bill?

[no response]

26. Do you agree with the Scottish Ministers being given powers to make provision in relation to matters that are to be taken into account by the Land Court when determining the rent for a holding?

[no response]

Sections 26 and 27

27. Do you agree with the proposed changes to the rules of good estate management?

[no response]

28. Do you agree with the proposed changes to the rules of good husbandry?

[no response]

General questions

Links to the Agriculture and Rural Communities (Scotland) Bill

29. Are the changes proposed in the Land Reform (Scotland) Bill sufficient to enable tenant farmers to engage in sustainable and regenerative agriculture, and to allow them to take part in schemes and programmes under any new agricultural policy?

[no response]

Fairness and checks and balances

30. Do you consider the Bill strikes a balance between the competing interests and rights of landowners, local communities, landlords and tenants, alongside the wider public interest?

The definition of large landholdings to refer to contiguous areas of land is welcome. The Church of Scotland General Trustees own small parcels of land in 401 individual parishes, scattered over the length and breadth of Scotland including the isles. The total acreage exceeds the threshold by hectareage but there are no large concentrations of land. The requirement for land to be contiguous supports the policy intentions and avoids what could have been a significant burden on local communities and volunteers.

Tackling the Climate and Biodiversity Crises

31. In your view, does the Bill make adequate provision for the role that land might play in delivering a just transition to net zero and tackling the biodiversity crisis?

[no response]