

A Consultation on the Future of Land Reform in Scotland

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The Scottish Government, Edinburgh 2014

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Contents

Ministerial Foreword	i
Executive Summary	1
Chapter 1 Introduction: Land Reform in Scotland	3
Chapter 2 A Draft Land Rights and Responsibilities Policy	7
Chapter 3 Proposals for inclusion in a Land Reform Bill	9
Chapter 4 Assessing impact	20
Annex A The Scottish Government's current actions on Land Reform	22
Annex B The Land Reform Review Group's recommendations	27
Annex C How to respond to this consultation	36
Annex D Consultation questions & Respondent Information Form	37



Ministerial Foreword

The Scottish Government's vision is for a strong relationship between the people of Scotland and the land of Scotland, where ownership and use of the land delivers greater public benefits through a democratically accountable and transparent system of land rights that promotes fairness and social justice, environmental sustainability and economic prosperity.

This vision builds on Scotland's experience of land reforms that have sought to develop land rights in Scotland in a way that better reflects the public interest and modernises the nation's relationship with land. Examples of previous progress demonstrate that land reform measures such as statutory rights of access, the community right to buy, and abolition of feudal tenure have changed our relationship with land for the better delivering benefits for all, whether this be in urban or rural Scotland.

This Government has continued to progress the land reform agenda through a wide range of measures such as the modernisation of land registration through the Land Registration etc. (Scotland) Act 2012, converting ultra-long leases to ownership under the Long Leases (Scotland) Act 2012 and introducing proposals to Parliament within the current Community Empowerment (Scotland) Bill to improve community rights to buy and introduce a new community right to buy abandoned and neglected land.

In addition to these specific measures, and appreciating the importance of land reform to our vision for the future of Scotland, we also committed in our 2011 manifesto to establish an independent review of land reform in Scotland. The Land Reform Review Group published their report *The Land of Scotland and the Common Good* in May this year. I would like to share my thanks to the review group for such a broad ranging and considered Report, which will help inform and guide this Government's on-going commitment to land reform in Scotland, and commitment to a range of further land reform measures including bringing forward a Land Reform Bill.

2014 is a significant year in Scotland's history, with heightened public engagement in the democratic process and demand for change. Land reform and the actions we take on land reform, form part of our future. This fuels one of this Government's key aspirations: to move the debate on land reform from one previously focused on historic injustices to a more modern debate on the balance of land rights that best delivers for the people of Scotland.

This is why we are consulting on a *Land Rights and Responsibilities Policy Statement*, in which we set out a vision and principles for land rights in a 21st century Scotland. I hope this statement will stimulate positive dialogue and ensure that land reform is not an event but a continuous process. As part of a package of potential proposals for a Land Reform Bill, and in response to the Land Reform Review Group's recommendation, we are also proposing a

Land Reform Commission to be tasked with developing the evidence base for future land reform, supporting public debate and holding successive governments to account.

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If Scotland were starting afresh we would not be designing the pattern of land ownership we see today. Our aspiration is for a fairer and more equitable distribution of land in Scotland where communities and individuals can own and use land to realise their potential. Scotland's land must be an asset that benefits the many, not the few.

At the same time no single bill or action any government takes will see this pattern change overnight. As the Land Reform Review Group report emphasises, land reform is a long term process that will involve a range of measures over time. I believe the proposals set out in this consultation lay the foundation for future action on land reform and are vital next steps in Scotland's land reform journey.

This next step needs to be taken in the context of a conscious public debate about land and the public interest, and how land in Scotland works for the people of Scotland. Therefore, this is not simply a consultation for those in society with strong existing interests in land, but one in which I would hope all of civic society will engage.

I look forward to hearing your views and ideas during this process of consultation and as we take this land reform agenda forward.

A handwritten signature in dark ink, appearing to read 'Aileen McLeod', is positioned above the typed name.

DR AILEEN MCLEOD MSP
MINISTER FOR ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM

Executive Summary

1. The Scottish Government has welcomed the overall message and direction of the Land Reform Review Group's report, *The Land of Scotland and the Common Good*, published in May this year. As part of our on-going commitment to land reform and as part of our response to the report, we are taking forward commitments to:

- **improve the transparency of land ownership in Scotland** by working towards a target to complete the Land Register for the whole of Scotland within 10 years, with registration of all public sector land in 5 years;
- **improve and extend existing community rights to buy**, through the current Community Empowerment (Scotland) Bill that, if passed, will allow urban communities to exercise a right to buy and will introduce a new community right to buy for neglected or abandoned land;
- **develop a strategy to achieve our target for 1 million acres in community ownership by 2020**, setting the blueprint for a dedicated resource for community ownership within the Scottish Government in line with recommendations for a Community Land Agency;
- **extend the Scottish Land Fund** over the 2016-2020 spending period; and
- **bring forward a Land Reform Bill** within this Parliamentary term.

2. This consultation seeks views on a range of measures intended to further land reform in Scotland. The Scottish Government is proposing a Land Rights and Responsibilities Policy to help guide the development of public policy on the nature and character of land rights in Scotland and a range of proposals for a Land Reform Bill designed to:

- **Demonstrate long term commitment to land reform:** by setting up a Scottish Land Reform Commission to underpin land reform, by providing the evidence base for further land reform measures and assessing the impact of existing policies.
- **Improve the transparency and accountability of land ownership:** by (a) making public sector information on land, its value and ownership readily available to support open and transparent decision making by both the private and public sectors; and (b) limiting the legal entities that can, in future, take ownership of land in Scotland.
- **Address barriers to sustainable development and begin to diversify patterns of land ownership:** by providing powers for Scottish Ministers, or other public bodies, to intervene in situations where the scale or pattern of land ownership in an area, and the conduct of a landowner, is acting as a barrier to sustainable development.
- **Demonstrate commitment to effectively manage land and rights in land for the common good:** by (a) facilitating proactive management of public sector land in the wider public interest by extending the powers of Forestry Commissioners; (b) placing

a duty of community engagement on charitable trustees, when making decisions on land under the trustees control; and (c) to end the business (non-domestic) rates exemption for shooting and deerstalking and bring these businesses back into line with other ratepayers who help fund local services

- **Address specific aspects of land ownership and rights:** by (a) further modernisation of Common Good to promote greater flexibility on use and remove the need for references to the Courts; (b) to improve deer management legislation; (c) to take forward legislative changes required in light of the upcoming recommendations of the Agricultural Holdings Review on the future of tenant farming; and (d) on public access, to make clarifications to the core paths planning process as set out in Part 1 of the Land Reform (Scotland) Act 2003.

How to respond

3. We would like to hear your views on our vision for a Land Rights and Responsibilities Policy and the proposals we have set out for a Land Reform Bill. This paper covers a wide range of complex issues and we appreciate there is a lot to consider.
4. The proposed Land Rights and Responsibilities Policy and the suggested proposals for a Land Reform Bill are a package of measures. By balancing action in all these areas we can provide a basis for future land reform. However, we appreciate some people will have a particular interest in certain areas. We would encourage you to respond to any or all of those parts where you feel you have a contribution to make.
5. We also welcome your views on the potential impacts of these proposals. Throughout the development process we have been considering the potential impacts the Bill may have. We believe a range and balance of measures will promote positive social, economic and environmental impacts.
6. We will carry out a full Equality Impact Assessment and Business Regulatory Impact Assessment and Privacy Impact Assessment on the Land Rights and Responsibilities Policy and on the proposals to be contained in a Land Reform Bill. We will also consider the potential environmental impacts of any proposals and if a Strategic Environmental Assessment will be required.
7. We welcome your thoughts on the potential impacts, both positive and potentially negative, of any of the ideas in this paper and questions have been included at the end of the consultation paper for this purpose.
8. The consultation runs until 10 February 2015. A 10 week consultation will allow us to ensure your views are taken into account in order to introduce a Land Reform Bill in the next Parliamentary year. **Annex C** sets out a number of ways you can respond to this consultation paper, including online here at the [Scottish Government website](#). **Annex D** contains the Respondent Information Form, please do not forget to include your Respondent Information Form, your response cannot be accepted without it.
9. We look forward to hearing from you.

You can respond online on the [Scottish Government website](#).

You can respond by email by sending your response to LandReform@scotland.gsi.gov.uk

You can also respond in writing, by sending your responses to the address below:- Land Reform Team

B1 Spur,
Saughton House
Edinburgh
EH11 3XD

Chapter 1 Introduction: Land Reform in Scotland

10. Scotland is rich in natural resources, most importantly land, which is part of our history and identity as a country and as a people.

11. Land, both rural and urban, is intimately linked to ideas of well-being, justice, economic opportunity and identity. Land is key to the success and development of our communities. Our relationship to land is, therefore, fundamental to our well-being and economic success as well as to achieving environmental sustainability and social justice.

12. The system and structure of land ownership and rights in land is a defining factor in this relationship: it can facilitate and promote development, but it can also act as a barrier. In this context, ambitious land reform has the capacity to contribute to sustainable economic growth, which is at the heart of the Scottish Government's purpose.

13. Land Reform has the potential to empower greater numbers of people and to promote issues of social justice as well as greater investment and development. The decisions we take now on land reform will shape Scotland's future for generations to come.

History of land reform in Scotland

14. Land Reform has been the subject of discussion in Scotland for generations. More recently a broad-ranging review by the Land Reform Policy Group, carried out in the late 1990s and chaired by Lord Sewel, examined the policies and other measures needed to remove land-based barriers to the sustainable development of Scottish rural communities.

15. Two main outcomes for land reform were identified. First, to achieve more diverse ownership and a reduction in the concentration of ownership and management arrangements, at local level, to promote sustainable development.¹ Second, to ensure increased community involvement in the way that land was owned and used so that local people were not excluded from decisions which affect them as individuals and as communities.

16. The Group's Report *A Vision for the Future*² was published in 1999 and set out a series of aspirations for change, including:

¹ It is important to note that diversity was taken to mean greater diversity in private, public, partnership, community and third sector ownership.

² Land Reform Policy Group, *A Vision for the Future*, Scottish Executive; Edinburgh, 1999.

- more local involvement, greater commitment and accountability by private landowners;
- more scope for community ownership and management of local land where sustainable;
- more scope for releasing land for housing and local development where sustainable and secures the retention and, if possible, the expansion of fragile rural communities;
- about the same level of ownership by public bodies, but with more local involvement and accountability and more employment of local people;
- more local involvement and accountability and more employment of local people by non-Governmental organisations who own land in rural Scotland;
- outdated and unfair feudal arrangements swept away;
- conditionality of land ownership where appropriate to reflect modern circumstances;
- a more constructive approach to problem cases, including those relating to the foreshore and the seabed;
- more definitive and broad-brush information readily available about land ownership;
- more information readily available about beneficial owners and about public support relating to land;
- better integration of policy for rural land use at national and local level;
- more public access on a responsible basis;
- better arrangements for agricultural tenancies; and
- more sustainable crofting communities.

17. Since the report, there have been various and wide-ranging legislative and other measures put in place to deliver land reform across the Parliamentary terms to date. Many of these measures required the Scottish Parliament to pass new legislation such as the :

- Abolition of Feudal Tenure etc. (Scotland) Act 2000
- Land Reform (Scotland) Act 2003
- Agricultural Holdings (Scotland) Act 2003
- Title Conditions (Scotland) Act 2003
- Nature Conservation (Scotland) Act 2004
- Crofting Reform etc. Act 2007
- Land Registration etc. (Scotland) Act 2012 •
- Long Leases (Scotland) Act 2012.

18. Many of these acts of the Scottish Parliament have improved the laws governing the rights of ownership and other rights in land in Scotland such as: the abolition of feudal land tenure; the introduction of community rights to buy land; and the modernisation of land registration.

19. The recent independent report of the Land Reform Review Group (the Review Group), chaired by Alison Elliot, [*The Land of Scotland and the Common Good*](#)³ (the LRRG Report) extended to a 240 page report with 62 recommendations that has placed land reform in its broadest context yet.
20. The Review Group was announced on 24 July 2012 and started its enquiry in September 2012. A call for evidence was issued on 4 October 2012. By 18 January 2013, 484 submissions had been received. The Review Group also undertook a programme of meetings and visits to gather evidence and views of people and communities across Scotland.
21. A thorough analysis of responses was carried out and considered by the Review Group. The Review Group also called for further evidence and met with experts as they developed their recommendations.
22. The final report, published in May 2014, clearly identified the land reform debate in a modern context, relevant to the whole of Scotland, urban and rural, with a clear focus on the public interest and the common good.
23. The LRRG Report moved considerations of land reform - in the past often focused on addressing concerns over historic injustices - to a debate firmly focused on looking forward at how best to ensure the public interest. The Report looks at how the 'common good' can best be served through the exercised of a range of policies that impact on access, use, ownership and rights in land. In this context, land reform can only be delivered through a series of careful changes across a whole range of policy areas.
24. The LRRG Report discusses the pattern of ownership of land throughout Scotland. In doing so, it refers to the claim that 432 people own half of the privately owned land in Scotland. The Report argues that the existing balance of policies is not meeting demands for a fairer society and that patterns of land ownership should change. Overall the Report highlights that land reform needs to be an on-going process, continuously updating Scotland's system of land ownership and rights in land to ensure that Scotland's land delivers for the people of Scotland.

How the Scottish Government is responding to the Review Group's Report

25. The LRRG Report proposed a range of actions that would over time start to influence the balance of rights and patterns of ownership and ensure Scotland's land delivers for Scotland's people. In an initial response to the Report, Paul Wheelhouse, then Minister for the Environment and Climate Change, welcomed the overall vision and the proposed direction of travel of the recommendations.
26. The Report's 62 recommendations range from smaller short term proposals to longer term, more radical changes and not all will require legislation. There has been a high level of agreement over the Report's aims and its vision for how we manage land ownership and rights in land in Scotland. We have, since publication, been

³ <http://www.scotland.gov.uk/Publications/2014/05/2852>

considering whether the Report's recommendations are in fact the best way to achieve the Report's aims and our aspirations for the future of Scotland.

27. **Annex B** contains detail of all the recommendations made in the Report, and the action that is being taken forward by the Scottish Government for each. It is our intention to publish a full response on all the recommendations after the responses to this consultation have been considered and analysed.
28. We are already taking forward a number of policies that seek to achieve the aims set out in the LRRG Report. Some of these are non-legislative such as developing a Land Rights and Responsibilities Policy. Others, such as improving and extending community rights to buy, require legislation will be taken forward in other Bills.
29. Our current actions on land reform, many of which we have committed to and started to implement since publication of the Report in May, are summarised below. These are set out in more detail in **Annex A**.
 - **Improving the transparency of land ownership**, by announcing the target to complete the Land Register covering the whole of Scotland in 10 years with all public land being registered within 5 years.
 - **Improving and extending existing community rights to buy and introducing a new community right to buy for neglected or abandoned land**, within the existing Community Empowerment (Scotland) Bill.
 - Taking forward **a dedicated workstream to consider the 9 recommendations relating to land assembly for housing and regeneration**, in order to design and further consult on a package of measures to best meet the Review Group's aims.
 - **Committing to consult in Spring 2015 on a new management system and further options in response to the recent Wild Fisheries Review**, to be followed by consultation on a draft wild fisheries Bill in Winter 2015/16.
 - **Committed to launching a public consultation on substantive changes to succession law before the end of this financial year**, in response to the Scottish Law Commission's 2009 report on Succession. As part of this modernisation, the distinction between movable and immovable property would be removed.
 - **Developing a strategy to achieve our target for 1 million acres in community ownership by 2020**, including the establishment of a Short Life Working Group to help develop a strategy and action plan for community land ownership that will act as a blueprint for a dedicated community ownership support team within the Scottish Government, in line with the Review Group's recommendation for a Community Land Agency.

Next steps

30. We understand the importance and breadth of the issues at the heart of the Land Reform Review Group's Report. We know that to achieve the ambitions of the people of Scotland and we need to do more than just respond separately to the 62 recommendations.

31. As a nation, we need to consider how to balance ownership and rights in land and promote diversity in all forms of ownership – public, private, third sector and community. We need to design policies that deliver for the people of Scotland.

32. The aim of this paper is, therefore, to ensure you and everyone in Scotland are given the chance to influence this debate, provide your thoughts and suggestions, and to shape both Scotland's vision for the future of land rights and responsibilities policy and future land reform by consulting on:

- our vision and plans for the future of land rights in 21st Century Scotland as contained in our draft Land Rights and Responsibilities Policy (Chapter 2); and
- potential proposals for a Land Reform Bill within this Parliamentary term (Chapter 3).

Chapter 2: A Draft Land Rights and Responsibilities Policy Statement

Land Rights in a 21st Century Scotland

33. The relationship between the people living in Scotland and the land of Scotland is of fundamental importance. The land of Scotland is a finite resource and the land rights that govern how the land is owned and used have a crucial influence on the wellbeing, economic success, environmental sustainability and social justice of the country. This statement proposes a vision and set of principles to guide the development of public policy on the nature and character of land rights in Scotland.

Vision

For a strong relationship between the people of Scotland and the land of Scotland, where ownership and use of the land delivers greater public benefits through a democratically accountable and transparent system of land rights that promotes fairness and social justice, environmental sustainability and economic prosperity.

Principles

1. The ownership and use of land in Scotland should be in the public interest and contribute to the collective benefit of the people of Scotland.
2. There should be clear and detailed information that is publicly available on land in Scotland.
3. The framework of land rights and associated public policies governing the ownership and use of land, should contribute to building a fairer society in Scotland and promoting environmental sustainability, economic prosperity and social justice.

4. The ownership of land in Scotland should reflect a mix of different types of public and private ownership in an increasingly diverse and widely dispersed pattern, which properly reflects national and local aspirations and needs.
5. That a growing number of local communities in Scotland should be given the opportunity to own buildings and land which contribute to their community's wellbeing and future development.
6. The holders of land rights in Scotland should exercise these rights in ways that recognise their responsibilities to meet high standards of land ownership and use.
7. There should be wide public engagement in decisions relating to the development and implementation of land rights in Scotland, to ensure that wider public interest is protected.

The Scottish Government will take into account in all its policies the vision and principles set out in this document.

34. The Land Reform Review Group's report stated that land reform is a process. The Scottish Government is committed to a forward looking programme of land reform. We believe that the draft Land Rights and Responsibilities Policy will guide future land reform in Scotland.

35. Once you have considered the draft policy, set out above, and the proposals for reform throughout this document we would welcome your views as to what the long term actions and priorities should be for the Scottish Government.

Q 1. Do you agree that the Scottish Government should have a stated Land Rights and Responsibilities Policy?

Q 2. Do you have any comments on the draft Land Rights and Responsibilities Policy?

Q 3. Considering your long term aspirations for land reform in Scotland, what are the top three actions that you think the Scottish Government should take?

Chapter 3: Proposals for inclusion in a Land Reform Bill

36. Land reform covers a wide range of policies and issues across Government. As highlighted above, many of the aims of the Review Group's recommendations will not require legislation or can be addressed through other Bills, either currently before Parliament or due to be taken forward separately as part of a wider package of reform.

37. We have identified a number of desired outcomes within the Review Group's recommendations that are likely to require a legislative solution and could form part of a stand-alone Bill within this Parliamentary term.

38. This is why, as part of our early response to the LRRG Report, we committed to the ambitious target of laying a Land Reform Bill in the Scottish Parliament within this Parliamentary term.

39. Initial responses to the LRRG report, together with the level of engagement and debate on all sides of the referendum debate, show that the people of Scotland want to engage in the development of ideas and policies that will affect their future.

40. For each of the potential proposals for a Land Reform Bill, there are a number of questions to determine whether you: agree with the aim of the proposal; agree with the suggested method to achieve that aim; if you have any alternative proposals for achieving the aim; and whether you have any comment on the potential impacts of the proposals.

This chapter is split into 5 sections to reflect the proposed aims of the Bill as highlighted above:

- A. Demonstrating long term commitment to land reform;
- B. Improving the transparency and accountability of land ownership;
- C. Addressing barriers to sustainable development and begin to diversify patterns of land ownership; and
- D. Demonstrating commitment to effectively manage land and rights in land for the common good; and
- E. Addressing specific aspects of land ownership and rights.

A. DEMONSTRATING LONG TERM COMMITMENT TO LAND REFORM

Proposal 1: A Scottish Land Reform Commission

41. Both the Land Reform Policy Group, chaired by Lord Sewel, and the recent Land Reform Review Group were clear that land reform is not an event but a process. As land is a vital and finite resource, land rights policies that impact on ownership, access and use of land are of significant importance within Scotland.

42. The creation of a Scottish Land Reform Commission would allow for valuable oversight of the wide spectrum of land reform issues, ensuring Scotland continues to make progress to address current and emergent issues.

43. While the exact structure and remit would need to be defined, this Commission could have responsibilities such as: promoting land reform; collecting evidence and carrying out studies; and monitoring the impact and effect of law, policies and practices on landownership in Scotland.

Q. 4. Do you agree that a Scottish Land Reform Commission would help ensure Scotland continues to make progress on land reform and has the ability to respond to emergent issues?

Q. 5. What do you think the advantages or disadvantages of having a Scottish Land Reform Commission would be?

Q. 6. Do you have any thoughts on the structure, type or remit of any Scottish Land Reform Commission?

B. IMPROVING THE TRANSPARENCY AND ACCOUNTABILITY OF LAND OWNERSHIP IN SCOTLAND

Proposal 2: Limiting the legal entities that can own land in Scotland

44. The Scottish Government understands that, in some cases, it can be difficult to trace and contact landowners and that this can lead to practical difficulties for those seeking to engage with land owners, or enforce fiscal or environmental obligations.

45. The Review Group recommended that the Scottish Government should make it incompetent for any legal entity not registered in a Member State of the European Union (EU) to register title to land in the Land Register of Scotland, in order to improve traceability and accountability. While the aims of this recommendation are supported, it does raise several policy and legal issues that require careful consideration.

46. The Scottish Government is, therefore, considering how any potential measures could work in practice and how they could be designed to help deliver the policy objectives of improving traceability and accountability of landowners and certain leaseholders in Scotland. It is important that any proposals taken forward are proportionate, effective, and comply with the requirements of EU law and the European Convention on Human Rights (ECHR) as well as other international obligations.

47. The Government's view is that it would be difficult to apply the proposal to existing landowners. Instead, it may be preferable to apply any restrictions to entities seeking to own land or buildings in Scotland, or take on a long lease,⁴ after a date to be laid down in the future. As the Land Reform Review Group indicated, the restriction would just relate to

⁴ A lease with a duration of over 20 years. A long lease can be registered in the Land Register.

entities: it would not relate to private individuals. As a result, private individuals, whatever their nationality, would still be able to own land.

48. While it is important to be conscious of concerns about inward investment, restricting entities not formed in accordance with the law of a Member State of the EU would not hinder inward investment. In particular, it is straightforward and low cost to set up a company registered in the EU, e.g. in the UK. Therefore, a restriction could be considered that in future land could only be purchased, or a long lease only be taken over land, by individuals or legal entities formed in accordance with the law of an EU Member State.

49. Imposing restrictions through the Land Register (or the General Register of Sasines) would raise issues around the interaction between the rules for entering into contracts to buy and sell land and the registration process for obtaining a real ownership right in land. Further consideration needs to be given on exactly how the restriction would operate and be enforced, including what consequences, sanctions or penalties might follow if the restriction is breached.

50. Some other exemptions might be needed, e.g. for foreign Governments (so they could establish consulates in Scotland) and international organisations (e.g. the United Nations or the Commonwealth). It will also be necessary to consider the position of legal entities from the wider EEA and Switzerland, due to the fact that Single Market arrangements generally extend to the EEA and to consider arrangements existing with other countries such as Switzerland.

Q. 7. Do you agree that restricting the type of legal entities that can, in future, take ownership or a long lease over land in Scotland would help improve the transparency and accountability of land ownership in Scotland?

Q. 8. Do you agree that in future land should only be owned (or a long lease taken over land) by individuals or by a legal entity formed in accordance with the law of a Member State of the EU?

Q. 9. What do you think the advantages or disadvantages of any restriction would be?

Q. 10. How should any restriction operate and be enforced, and what consequences might follow if the restriction is breached?

Proposal 3: Information on land, its value and ownership

51. Clear and up-to-date information about land, its value and ownership provides a good basis for open and transparent decision making - for both the private and public sectors.

52. Understanding the impact of public policies on land ownership, transactions in land and land values also helps Government design systems that help promote desired outcomes for planning, housing, agricultural and general land use policies.
53. At present there is a wide range of information on land ownership and land values held across the public sector. Examples of the wide range of organisations who hold this sort of information include the Registers of Scotland, the Scottish Environment Protection Agency, Highlands and Islands Enterprise, Scottish Assessors and Local Authorities as well as core Scottish Government and numerous other bodies.
54. Bringing this information together will provide further benefits. While there will be start-up costs, it should allow Government to realise longer term efficiency savings, such as through reduction of duplication data collections. There will also be efficiencies for end users of the information by ensuring that they can quickly locate the accurate information they require, rather than searching across numerous different sources.
55. A central repository may also bring the ability to react quickly to changes in demands from users around, for example, the range of available formats for information. Flexible provision of this sort of information should also allow the property market to develop in a more efficient and intelligent way and help reduce transaction costs for business.
56. [Scotland's Digital Future: Delivery of Public Services](#)⁵ is a strategy that sets a number of objectives for the effective use and management of public sector data, both to improve service delivery and to promote economic growth. To ensure a cohesive approach is taken across Scotland, the cross sector Data Management Board (DMB) was established (June 2013).
57. The DMB has published [A Data Vision for Scotland](#)⁶ and associated [Strategic Action Plan](#)⁷ to provide guidance and leadership so that the effective use of data is engrained in all of our public services. The DMB is also looking to publish an open data strategy, which will open up non-personal public services data for re-use by the end of this year.
58. We are currently working to develop a better understanding of the variety of information sources available across the whole of the public sector and how best information, held by the public sector, can be made readily available and accessible for reuse.
59. As part of this process, we will consider whether any changes to legislation are required. Any proposals taken forward would have to be considered carefully to ensure sufficient safeguards are in place to protect personal and commercially sensitive information.
60. There will also have to be further consideration on the potential costs and savings. However, we would welcome your thoughts on the aim of this proposal.

⁵ <http://www.scotland.gov.uk/Publications/2012/09/6272>

⁶ <http://www.scotland.gov.uk/Topics/Economy/digital/digitalservices/datamanagement/dmbvfs/dmbvfspdf>

⁷ <http://www.scotland.gov.uk/Topics/Economy/digital/digitalservices/datamanagement/MeetingsandPublications/DMBMeetingFive/DMBMeeting5Paper2>

Q. 11. Do you agree that better co-ordination of information on land, its value and ownership would lead to better decision making for both the private and public sectors?

Q. 12. Do you hold data you could share or is there any data you would wish to access?

Q. 13. What do you think the advantages or disadvantages of wider and more flexible sharing of land information would be and do you have any recommendations about how this can best be achieved?

C. ADDRESSING BARRIERS TO SUSTAINABLE DEVELOPMENT AND BEGINNING TO DIVERSIFY PATTERNS OF LAND OWNERSHIP

Proposal 4: Sustainable development test for land governance

61. The vast majority of land in Scotland is owned by the private sector. Landowners are instrumental in promoting sustainable local development and supporting communities.

62. However, in some instances the scale or pattern of land ownership, and the decisions of landowners, can be a barrier to sustainable development in an area. Providing mechanisms to address such situations could allow for potential barriers to sustainable local economic and social development to be overcome.

63. In situations where there was sufficient evidence that current ownership patterns and decisions on land were causing such barriers, then landowners could be directed by Scottish Ministers or other public bodies to take steps to remove those barriers, including working with the public sector body or the local community.

64. Subject to the nature of the barrier, the evidence available and solution required, this may involve the owner being required to release or sell land.

65. It will be important to ensure any proposal complies with the requirements of EU law and the European Convention on Human Rights. The detail of how such a process would work is still being considered and we would welcome your views.

Q. 14. Do you agree that there should be powers given to Scottish Ministers or another public body to direct private landowners to take action to overcome barriers to sustainable development in an area?

Q. 15. What do you think the benefits would be and do you have any recommendations about how these can best be achieved?

Q. 16. Do you have any concerns or alternative ways to achieve the same aim?

D. DEMONSTRATING COMMITMENT TO EFFECTIVELY MANAGE LAND AND RIGHTS IN LAND FOR THE COMMON GOOD

Proposal 5: A more proactive role for public sector land management

66. Just over 16.5% of land in Scotland is owned by either the Scottish Government or local authorities. The Review Group and others have applauded the work of Forest Enterprise Scotland (FES) and Forestry Commission Scotland (FCS) in facilitating the transfer of land into community ownership. Recent work by FES to establish starter farms for new entrants to farming has also been very successful.

67. It is clear public land should be managed for the greatest overall benefit, balancing a number of differing and sometimes conflicting public needs. We believe this should be done in a proactive way across the public sector, to deliver greater benefits across a wide range of policy areas and across the whole of Scotland. However, the legal framework for some public bodies can be a significant constraint on the range of operations that they can undertake to deliver these benefits.

68. Having a Land Rights and Responsibilities Policy will help promote this proactive approach. However, we also need to make sure that public sector bodies have the range of powers and the flexibility they need to take a wider, outcomes based approach to land management.

69. We are considering a range of ways to improve the ability of public sector organisations, such as Forestry Commission Scotland, to manage public land to promote social, economic and environmental outcomes in the public interest. We would welcome your thoughts on how best to achieve this.

Q. 17. Do you agree that public sector bodies, such as Forestry Commission Scotland, should be able to engage in a wider range of management activities in order to promote a more integrated range of social, economic and environmental outcomes?

Q. 18. What do you think the benefits would be and do you have any recommendations about how this can best be achieved?

Q. 19. Do you have any concerns or alternative ways to achieve the same

aim?

Proposal 6: Duty of community engagement on charitable trustees when taking decisions on land management

70. All landowners should consider the ways in which decisions they take on land management impact on the local community. Other proposals in this paper consider the role of public and private sector landowners. This proposal considers the relationship between charitable organisations that own land and the local communities who may be affected by decisions taken on the use, management or transfer of that land.

71. Charity trustees are responsible for the governance and strategy of the charity. They are responsible for making sure that their charity is administered effectively and can account for its activities and outcomes.

72. At present, under section 66 of the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act), trustees of a charitable organisation must comply with a number of general and specific duties - including a duty to act in a manner consistent with the purposes of the charity. The 2005 Act recognises that other legislation may impose duties on the trustees and the obligation to act in accordance with the purposes of the charity is without prejudice to any other legislative duties.

73. We would propose adding a specific stand alone duty on trustees of a charity that when considering the management, use or transfer of any land under the charity's control, the trustees must engage with the local community and consider the potential impact on the local community before taking any decision.

74. This consideration will require to be balanced with the exercise of their other functions and their duty to act in the interests of the charity and to ensure that the charity acts in a manner which is consistent with its purposes.

75. The details of such a duty and how it would balance with the trustees' other duties and the charitable purposes of the charity will need to be considered. We would welcome your views on how to achieve this balance.

Q. 20. Do you think a trustee of a charity should be required to engage with the local community before taking a decision on the management, use or transfer of land under the charity's control?

Q. 21. What do you think the advantages or disadvantages would be?

Q. 22. How should "community" be defined?

Q. 23. What remedies should be available should a trustee of a charity fail to engage appropriately with the local community?

Proposal 7: Removal of the exemption from business rates for shooting and deerstalking

76. The Scottish Government continues to deliver the most competitive business tax environment in the UK through its business rates policies. Our business (non-domestic) rates regime must continue to support businesses to flourish, whilst raising revenue to help deliver essential local services.

77. An exemption from business rates for “shootings, deer forests, fishings and fish counters” – often referred to as “sporting rates” – has been in place since 1995.⁷

78. Salmon fishing rights have continued to be valued by the Scottish Assessors, although only at the request of district salmon fishery boards for the purpose of fishery assessment (the ‘salmon levy’), rather than for rating. The current business rate exemptions for fishings and fish counters will be subject to separate consideration by Scottish Ministers in due course in response to the relevant recommendations of the recent Wild Fisheries Review.⁸

79. UK Ministers in 1994 estimated annual council revenue from sporting rates at £2 million. Today, that could equate to around £4 million (subject to any rates relief).⁹ However, given that shootings and deer forests have not been on the valuation roll since 1995, and the intervening changes in the country sports market and to the prevailing range of rates reliefs, an accurate calculation of revenue could only be made once new valuations are completed by the Assessors. Therefore, the above figure should be considered as an estimate.

80. It is proposed that the Land Reform Bill should include provisions to end the business rate exemptions for shootings and deer forests. Ending these exemptions would require identification and valuation of subjects by the Assessors, with rates bills calculated and relief applications determined by local authorities. This would bring shooting and deerstalking businesses back into line with other ratepayers who help fund local services.

Q. 24. Should the current business rate exemptions for shootings and deer forests be ended?

Q. 25. What do you think the advantages would be?

Q. 26. What do you think the disadvantages would be?

E. ADDRESSING SPECIFIC ASPECTS OF LAND OWNERSHIP AND RIGHTS

Proposal 8: Common Good

81. Common Good is a form of land ownership that has a long history in Scotland and often plays an important part in the historic, cultural and economic heritage of communities where such property exists. However, there is widespread agreement that the legal

⁷ s.151, Local Government etc. (Scotland) Act 1994

⁸ www.scotland.gov.uk/Topics/marine/Salmon-Trout-Coarse/fishreview/WFRFinal

⁹ Forward projection based on overall rise in Scottish non-domestic rates income; however, an accurate estimate would require detailed analysis, taking into account changes in the tax base and the impact of changes in reliefs.

framework around common good needs to be modernised to meet modern circumstances and the expectations of communities.

82. Provisions already being proposed in the current Community Empowerment (Scotland) Bill seek to improve transparency by placing duties on local authorities to: (a) establish and maintain common good property registers; and (b) consult with Community Councils and others over any planned disposal of common good property.

83. However, we are aware that there are still a number of issues to be addressed around the definition of common good and the use and alienation of common good property.

Q. 27. Do you agree that the need for court approval for disposals or changes of use of common good property, where this currently exists, should be removed?

Q. 28. If removed, what should take the place of court approval?

Q. 29. Should there be a new legal definition of common good?

Q. 30. What might any new legal definition of common good look like?

Q. 31. Do you have any other comments?

Proposal 9: Agricultural Holdings

84. The legislative framework governing the tenant farming sector needs reformed in order to be fit for the 21st century. The current Agricultural Holdings Legislation Review, chaired by Mr Lochhead, Cabinet Secretary for Rural Affairs, Food and the Environment, has built a high level of engagement and confidence amongst the sector and there is a strong desire that the Review's recommendations be taken forward quickly.

85. The Agricultural Holdings Legislation Review Group has been working over the last year to develop a range of recommendations designed to address current concerns and promote a vibrant tenanted sector. The Group has consulted with stakeholders and the public throughout this period and the recommendations have been developed on the basis of detailed consultation with tenants, landowner and others in the sector.

86. The Group's interim report, published in July 2014, sets out the Review Group's analysis and thoughts on a wide range of evidence gathering and consultation that formed the first stage of their work and [can be found here](http://www.scotland.gov.uk/Publications/2014/07/5054).¹⁰

¹⁰ <http://www.scotland.gov.uk/Publications/2014/07/5054>

87. The Group are due to complete their work by the end of this year and their final recommendations will need to be considered as a whole in order to achieve the aim of rebuilding confidence and improving relationships between tenants and landowners, facilitating retirement and encouraging new entrants and providing modern, flexible letting vehicles. It is hoped that a number of the recommendations, where legislative change is required, can be taken forward within the Land Reform Bill.

Q. 32. Do you agree that the Scottish Government should take forward some of the recommendations of the Agricultural Holdings Legislation Review Group within the proposed Land Reform Bill?

Q. 33. What do you think the advantages would be?

Q. 34. What do you think the disadvantages would be?

Proposal 10: Wild Deer

88. Wild deer are a key part of Scotland's natural heritage, bringing benefits in terms of tourism, sport and food. However, their distribution and numbers have the potential to have an adverse impact on the regeneration of woodlands, on fragile habitats, on agricultural crops and on road traffic safety. Wild deer therefore need to be managed to control their impacts on the environment and on land use objectives.

89. Wild deer in Scotland are not owned, but the right to take or kill deer rests with the owner or occupier of the land. There is no legal obligation on landowners or occupiers to manage deer. However the Deer (Scotland) Act 1996 contains powers for Scottish Natural Heritage (SNH) to intervene and impose management measures where SNH considers that deer management is detrimental to the public interest, and there is also a Code of Practice on Deer Management that sets out the responsibilities of landowners.

90. This voluntary approach to deer management in Scotland has been criticised for failing to address over-population of deer in some areas of Scotland, in particular where there are conflicts in land use objectives between those who wish to manage deer to maintain sporting interests and those who are seeking to restore or protect designated sites.

91. The Scottish Parliament's Rural Affairs and Climate Change (RACCE) Committee carried out an enquiry into deer management in early 2014 and while noting that the Parliament had confirmed support for the voluntary approach through the passing of the Wildlife and Natural Environment (Scotland) Act in 2011, concluded that Deer Management Groups (DMGs) need to make progress on developing and implementing deer management plans. The Committee recommended that the end of 2016 would be a suitable juncture to review progress.

92. In responding to the Committee, the Minister for Environment and Climate Change recognised that the pace of progress has been too slow and agreed that the end of 2016 would be a suitable juncture to consider progress and look to take action if the current voluntary system has not produced a step change in the delivery of effective deer management.

93. We propose therefore to bring forward provisions in the Land Reform Bill that will give further powers to SNH to act in areas of the country where they judge that insufficient progress is being made to protect the public interest. The powers would build on those already available through the Deer (Scotland) Act 1996. The aim of the powers would be to ensure that SNH can require that landowners have in place detailed sustainable deer management plans that protect the public interest and that the plans are fully carried out.

94. The new powers would not be intended as a replacement for the voluntary system of deer management, but as a backstop to be brought into play where the voluntary system was not delivering the public interest in certain areas. If Scottish Ministers decided on the basis of the review at the end of 2016 that there was a requirement to replace the voluntary arrangements with a statutory system, then this would be developed at that point. However, we consider it important that the proposed additional measures are in place - to ensure that deer management plays its part in delivering the 2020 Biodiversity targets - which could be implemented without delay if it is concluded that the current arrangements need strengthening.

Q. 35. Do you agree that further deer management regulation measures should be introduced to be available in the event that the present arrangements are assessed as not protecting the public interest?

Q. 36. What do you think the advantages would be?

Q. 37. What do you think the disadvantages would be?

Proposal 11: Public Access: clarifying core paths planning process

95. In what was considered at the time to be a radical move, Part 1 of the Land Reform (Scotland) Act 2003 formalised rights of public access in a statutory framework. Over 25% of the submissions to the Review Group commented on the management of public access.

96. The Review Group invited comments from the National Access Forum, established by Scottish Natural Heritage to advise on national issues linked to Scottish access rights, to ensure the Forum's work was reflected in the Group's recommendations.

97. The Review Group considered that the statutory framework in Part 1 should be judged a considerable success, that has delivered significant public benefits and is "generally working well on the ground". It noted that the main challenges were continuing improvements in implementation rather than the terms of the legislation, and recommended updating of the statutory guidance to access authorities.

98. In so doing, the Review Group highlighted a need for clarification of some aspects of the Core path planning process (sections 18-20 of the Act). This is one of a number of small potential changes to Part 1 which have been identified as requiring some legislative change, and it is our intention to make these changes through the Land Reform Bill. The updating of the statutory guidance would follow.

Q. 38. At present, section 18 of the Land Reform (Scotland) 2003 Act is silent on the issue of resolving objections to a core path plan consultation.

Do you

agree that access authorities should be required, in the interests of transparency, to conduct a further limited consultation about proposed changes arising from objections?

Q. 39. Do you agree that section 20 of the 2003 Act should be clarified so that Ministerial direction is not required when an access authority initiates a core path plan review?

Q. 40. Do you think that the process for a minor amendment to core path plan (as set out in section 20 of the 2003 Act) should be simplified to make it less onerous than that for a full review of a core path plan?

Chapter 4: Assessing impact

99. We believe that by setting out a clear Land Rights and Responsibilities Policy and by implementing a broad range of land reform measures we can deliver a range of social, economic and environmental benefits for local areas.
100. However, it is important that we understand in more detail the impacts that the options set out in this paper may have.
101. During the consultation period we plan to contact stakeholders to discuss the potential positive and negative effects of our proposals and those that others may suggest.
102. Please use these questions to tell us your views on these issues.

Equality

103. The Scottish Government is committed to promoting equality and removing or minimising disadvantage which may be experienced by different groups of people. We have a legal duty to consider the impact of policies on people who may be differently affected in relation to the “protected characteristics” under the Equality Act 2010 of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
104. We also want to consider issues relating to poverty and social justice, to ensure that all individuals and communities are able to access the benefits that the Bill will deliver.

Q. 41. Please tell us about any potential impacts, either positive or negative, you feel the draft Land Rights and Responsibilities Policy or any of the proposals for the Bill may have on particular groups of people, with reference to the “protected characteristics” listed above. Please be as specific as possible.

Q. 42. What differences might there be in the impact of the Bill on individuals and communities with different levels of advantage or deprivation? How can we make sure that all individuals and communities can access the benefits of these proposals?

Business and Regulation

105. A full Business and Regulatory Impact Assessment will be carried out to analyse whether any of the proposed policies are likely to increase or reduce the costs and burdens placed on businesses, the public sector and voluntary and community organisations.

Q. 43. Please tell us about any potential costs or savings that may occur as a result of the proposals for the Bill, and any increase or reduction in the burden of regulation for any sector. Please be as specific as possible.

Privacy

106. A full Privacy Impact Assessment will be conducted to ascertain whether any of the proposed policies will have an impact on the privacy of individuals.

Q. 44. Please tell us about any potential impacts upon the privacy of individuals that may arise as a result of any of the proposals contained in this consultation. Please be as specific as possible.

Environmental

107. The Environmental Assessment (Scotland) Act 2005 ensures those public plans that are likely to have a significant impact on the environment are assessed and measures to prevent or reduce adverse effects are sought, where possible, prior to the main consultation and implementation of the plan.

108. At this early stage in the plan’s preparation it cannot determine whether significant environmental effects are likely to arise and the aim is to use this consultation process as a means to fully explore the likely environmental effects. Once completed it is our intention to determine, using the consultation process, what our statutory obligations under the 2005 Act are and how these can best be met.

Q. 45. Please tell us about any potential impacts, either positive or negative, you feel any of the proposals contained in this consultation may have on the environment. Please be as specific as possible.

Annex A: The Scottish Government's current actions on Land Reform

IMPROVING TRANSPARENCY AND ACCOUNTABILITY

A. Completion of the Land Register.

A key part of ensuring that land rights are clearly defined and transparent, is ensuring we have a comprehensive understanding of land ownership in Scotland. In Scotland we have the world's oldest property register – the General Register of Sasines – dating from 1617 and which is a register in which property deeds are lodged and from which ownership of land has to be deduced from an examination of those deeds; that can make the task of establishing who owns land complex and costly.

We also have one of the most recent land registration systems in the world as the Land Register started in Renfrew in 1981 and then spread over the rest of Scotland with the final areas covered in 2003. From its inception up until December 2014 properties generally only came on to the Land Register following a sale of the property. It has always been possible for owners to voluntarily register in the Land Register.

The Land Register provides a map based legally definitive register of title setting out who owns a particular property and showing the boundaries of that property on the Land Register map. To date some 58% of properties in Scotland are on the Land Register, though because the bulk of those properties are urban dwellings only around 26% of Scotland's land mass is registered.

Land Registration law has recently undergone significant review and reform with the result that a new legislative framework, as set out in the Land Registration etc (Scotland) Act 2012 that will come into force on 8 December 2014. One of the principal aims behind that Act is to enable completion of the Land Register. Scottish Ministers are committed to completing the Land Register and have invited the Keeper of the Registers of Scotland to do so within ten years. To emphasise their support to this exercise Scottish Ministers have committed to the registration of all public land within 5 years. The Keeper recently launched a public consultation on the use of the powers within the 2012 Act to achieve completion within the 10 year timeframe. The consultation closed on 4 November 2014 and the responses are currently being analysed.

ACHIEVING BETTER OUTCOMES FROM LAND

B. New and improved community rights to buy.

The Land Reform (Scotland) Act 2003 ("the 2003 Act") has been in force for a decade and it has enabled many rural communities in Scotland to reap the benefits of taking ownership of

land that they can then manage in the interests of the community. Whilst the experience of the last ten years has been positive, there are some changes to the right to buy provisions in Part 2 and 3 of the 2003 Act that the Scottish Government wishes to make through the Community Empowerment (Scotland) Bill that is currently being considered by the Scottish Parliament.

One of the key constraints of the 2003 Act is that the Community Right to Buy is only available to rural communities, so the Community Empowerment (Scotland) Bill extends the Community Right to Buy to urban communities and also proposes new provisions that will enable communities to apply to buy neglected or abandoned land.

The Bill also gives communities wishing to exercise their community right to buy greater flexibility by providing that Scottish Charitable Incorporated Organisations (SCIOs) as well as companies limited by guarantee can be community bodies and by allowing communities to define their “community” area in more ways than simply by referring to postcode.

It is also intended to bring forward amendments to the Bill to make a number of changes to the crofting community right to buy under the 2003 Act in order to address concerns made by Crofting Communities.

Further information on the Community Empowerment (Scotland) Bill is available on the Scottish Parliament website at:

<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/576.aspx>.

Further information on the Community Right to Buy is available at:

<http://www.scotland.gov.uk/Topics/farmingrural/Rural/rural-land/right-to-buy/Community>.

C. Extending the Scottish Land Fund until 2020.

The Scottish Land Fund, a manifesto commitment, supports the community ownership of land in rural Scotland. It supports rural communities to become more resilient and sustainable through the ownership and management of land and land assets (land assets are resources that are associated with the land such as mineral or riparian rights, energy opportunities, standing timber and buildings).

In 2012-16 the Scottish Land Fund is being administered by the BIG Lottery Fund in partnership with Highlands and Islands Enterprise. The Fund provides grants of between £10,000 to £750,000 to support projects from a range of community organisations in rural areas of Scotland (settlement areas of less than 10,000 head of population). Capital and revenue costs are eligible, though £50,000 is only available to support revenue costs.

The Fund, originally a £6M, three year commitment (£1M in 2012-13; £2M in 2013-14 and £3M in 2014-15), was extended, by an announcement of the First Minister on 7 June 2013, for a further year to cover the period 2015-16. This commitment has been further extended by the Minister for Environment and Climate Change on 7 June 2014 to cover the period 2016-20.

All projects must meet the outcome that their rural community achieves increased sustainable economic, social and environmental development through the experience of

acquiring, owning and managing land and land assets. In addition, they must also meet one of the following outcomes:

- Rural communities are more empowered and have a greater capacity to lead and control their own development so that they can generate sustainable income;
- People in rural communities have increased opportunities to participate effectively in community-led development, including volunteering;
- Rural communities are more resilient through the development and provision of community-led essential local services.

A number of awards have been made by the Scottish Land Fund. In 2012-13 a total of 4 awards were made (the Fund opened for business in the first week of July 2012); in 2013-14 a total of 15, and in 2014-15 some eight to date.

Some of the awards are set out below:

- A grant to **Mull of Galloway Trust** totalling **£338,500** for the purchase of land and buildings at the Mull of Galloway lighthouse (excluding the lighthouse tower and some ancillary buildings). (Year 2 – 2013-14)
- A grant of **£60,330** for **North Harris Trust**, for the legal fees associated with the transfer which will include the mapping and registration of the boundaries of the estate, and a contribution to the salary costs of a new Development Officer. (Year 2 – 2013-14)
- A grant of **£103,390** to **Kinghorn Community Land Association**, Fife, to purchase three plots of land at Kinghorn Loch, Kinghorn, to be developed as a multi faith community woodland burial site and community orchard. (Year 2 – 2013-14)
- A grant of **£54,901** for **The Ecology Centre**, Kinghorn, Fife, to purchase a plot of land at Kinghorn Loch, Kinghorn to build a new purpose-built centre which will safeguard local jobs. (Year 2 – 2013-14)
- A grant of **£230,000** for **The Pairc Trust** towards the acquisition of the Pairc Estate, Isle of Lewis. (Year 2 – 2013-14)
- A grant of **£99,437** to **Johnstonebridge Community Development Company** to purchase 4 plots of land for allotments and affordable housing. (Year 2 – 2014)
- A grant of **£207,500** (£157,500 capital funding and £50,000 revenue funding) to **Carloway Estate Trust (Urras Oighreachd Charlabhaigh)** for the purchase of Carloway Estate on Lewis. (Year 3 - 2014-15)
- A grant of **£750,000** to **South Cowal Community Development Company** to assist it to purchase Castle Toward Estate, Argyll & Bute, and develop it for leisure, tourism and amenity uses. (Year 3 - 2014-15)

The current administrative arrangements for the Land Fund programme run until March 2016. The Land Fund will be refreshed for a further four years.

For information on the Scottish Land Fund email: enquiries@biglotteryfund.org.uk, telephone: 0300 123 7110, <http://www.biglotteryfund.org.uk/scottishlandfund>.

D. A strategy to achieve 1 million acres in community ownership by 2020.

We recognise the importance of community land ownership in driving the prosperity of Scotland. In recent years the range of property owned by communities and the types of communities owning land has widened. This reflects a drive by the people of Scotland to positively influence their individual and collective well-being through developing strong, resilient and supportive communities.

Community land ownership spans a wide range of policy areas and we have already begun on-going discussions both across the Scottish Government and with external stakeholders to develop a clear vision, set of aims and outcomes for community ownership and for achieving the 1 million acre target.

It is anticipated this work will be used to help set up and shape a dedicated resource to support community ownership within the Scottish Government that could potentially fill the remit envisioned for a Community Land Agency by the Land Reform Review Group, and to help shape the next 2016-2020 Scottish Land Fund.

We have started to develop a series of work streams and are currently planning further consultation and engagement with a view to developing these with stakeholders, in order to improve existing information on community land ownership and to produce a strategy and action plan for community ownership from 2016 to 2020.

ADDRESSING SPECIFIC ASPECTS OF LAND OWNERSHIP AND RIGHTS

E. Housing and Planning response to recommendations

The recommendations in the Land Reform Review Group's Report that related directly to land assembly for housing and regeneration are being considered by Scottish Ministers within the context of the existing Scottish Planning System, which operates in the long term public interest in the use of land and future development.

The 9 recommendations concerned are:

- to extend the Right to Pre-emption so that local authorities have the right to register a statutory right to pre-emption over land, where it is in the public interest;
- introduce a new Compulsory Sale Order power;
- Local Authorities should have the right to exercise a Compulsory Sale Order over an area of vacant or derelict land;
- modernise the Compulsory Purchase Order process; introduce a
- Majority Land Assembly measure to support urban renewal; set up a
- National Housing Land Corporation charged with the acquisition and development of land *and*;
- for this body to have an extended role in small rural communities;
- introduce Urban Partnership Zones; and
- The Scottish Government should encourage and support a greater emphasis on public interest led development.

Issues being addressed include the current and potential effectiveness of existing powers, measures and structures. Interactions with the Scottish Law Commission review of compulsory purchase and land compensation as well as issues highlighted in the RICS Housing Commission report in July 2014 and comments made during the Scottish

Government Housing Event in November, will all be taken into account. There is likely to be further public consultation before significant action or legislation is progressed.

F. Wild Fisheries

The Scottish Government announced an independent review of the management of wild fisheries in January 2014, chaired by Andrew Thin. The driver for the review was the Government's manifesto commitment to protect and enhance Scotland's wild fisheries and modernise the management structures.

The review was the second stage of delivering the manifesto commitment (the first stage was Part 2 of the Aquaculture and Fisheries (Scotland) Act 2013). The review's aims were to:

- develop and promote a modern, evidence-based management system for wild fisheries fit for purpose in the 21st century, and capable of responding to the changing environment; and
- manage, conserve and develop our wild fisheries to maximise the sustainable benefit of Scotland's wild fish resources to the country as a whole and particularly to rural areas.

The review commenced in March 2014 and reported in October 2014: the report is available at: <http://www.scotland.gov.uk/Topics/marine/Salmon-Trout-Coarse/fishreview>.

The review's report is wide ranging and, in line with its remit, focuses on what a modern, evidence-based management system should look like. The Land Reform Review Group's published its Report while the review was underway, making a small number of recommendations relevant to wild fisheries management.

The panel gave these careful consideration and, where appropriate, they have been taken into account when framing the recommendations of the wild fisheries review. A number of themes from the land reform agenda are picked up in the report, including recognition of the public value of Scotland's wild fisheries and the need for the management system to serve and include a wider constituency than present.

Ministers have welcomed publication of the wild fisheries review report and committed to consider it in depth and consult on a new management system. It is anticipated that a consultation on policy options will take place in Spring 2015 followed by consultation on a draft Wild Fisheries Bill in Winter 2015/16.

G. Succession

The Land Reform Review Group highlighted a number of concerns over the current distinction in succession law between moveable and heritable property. The removal of the distinction was fundamental to the recommendations set out in the Scottish Law

Commission's 2009 Report on Succession, to ensure a just distribution of assets among a deceased's close family to reflect both societal change and expectations.

As part of the broader suite of measures to address land reform, there is also clear intention to bring forward a separate Bill on technical aspects of succession law, subject to satisfactory consultation responses, in this term of Parliament, to be followed, subject to the incoming administration's view, by a Bill on substantive changes to modernise succession law.

The consultation on the technical succession Bill closed on 7 November 2014 and a consultation on the substantive changes to succession law will be issued in 2015.

As part of this modernising of succession law, the distinction between movable and immovable property would be removed.

Annex B – The Land Reform Review Group's Recommendations

No.	Recommendation	Action being taken
1	The Scottish Government should be doing more to increase the rate of registrations to complete the Land Register, including a Government target date for completion of the Register, a planned programme to register public lands and additional triggers to induce the first registration of other lands	Scottish Ministers have announced that the Keeper of the Registers of Scotland has agreed that the Land Register of Scotland should be complete within 10 years, and all public land being registered within 5 years.
2	The Scottish Government should make it incompetent for any legal entity not registered in a member state of the European Union to register title to land in the Land Register of Scotland, to improve traceability and accountability in the public interest	A proposal considering this recommendation is included in this paper as part of the consultation on the proposed in Land Reform Bill.
3	The Scottish Government should, in the interests of social justice, develop proposals in consultation with the Scottish Law Commission for legislation to end the distinction between immovable and moveable property in Scotland's laws of succession	The Scottish Government is committed to launching a public consultation substantive changes to succession law in 2015.
4	The Review Group considers that the expansion of land registration is likely to result in surviving examples of common land and commonties coming to light. The Group recommends that these distinctive forms of land tenure should be identified and safeguarded as part of modernising Scotland's system of land ownership	This proposal is under consideration.

5	The Scottish Government should take forward the modernisation and reform of Scotland's compulsory purchase legislation, with a clear timetable for introducing a Bill to achieve this into the Scottish Parliament	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of 2015. Consideration will be given to the review of Compulsory Purchase law being undertaken by the Scottish Law Commission.
6	The Scottish Government and local authorities should have a right to register a statutory right of pre-emption over land, where that is in the public interest	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in the course of 2015.
7	The Scottish Government, local authorities and other public bodies in Scotland should publish online property registers that are publicly accessible	The proposal in this consultation in relation to making public sector information on land, its value and ownership readily

		available to support open and transparent decision making by both the private and public sectors relates to this recommendation. A full response will be made when the responses to this consultation have been analysed.
8	The Crown Estate Commissioner's statutory responsibilities in Scotland, under the Crown Estate Act 1961, should be devolved to the Scottish Parliament	This recommendation will be considered alongside the recommendations made by the Smith Commission in relation to the Crown Estate in Scotland.
9	The Scottish Government reviews the current Crown property rights in Scots law and brings forward proposals for the abolition of these rights or their replacement statutory provisions, as appropriate in the public interest.	This recommendation will be considered alongside the recommendations made by the Smith Commission in relation to the Crown Estate in Scotland.

10	The Scottish Government should ensure that the two reservations inserted by the Crown Estate Commissioners into the titles to Edinburgh Castle and other former Crown properties now owned by Scottish Ministers are removed	This proposal is under consideration.
11	The size and composition of the National Forest Estate should continue to evolve to meet changing circumstances. The Scottish Government and Forestry Commission Scotland should develop a more integrated and ambitious programme of land acquisitions in rural Scotland, as part of delivering multiple public interest policy objectives	This activity is part of normal business, the proposal in this consultation to extend the powers of Forestry Commissioners will make this easier.
12	A new statutory framework should be developed to modernise the arrangements governing Common Good property	The Community Empowerment (Scotland) Bill already provides for improvement to the law on common good property, but further modernisation is proposed for inclusion in Land Reform Bill.
13	There should be an agreed set of criteria which defines an 'appropriate community body', the Scottish Government should be flexible in terms of which legal structures are eligible. There should be a clear focus in public policy on supporting appropriate local community bodies that are owned and managed by local communities acting on their own behalves.	The Community Empowerment (Scotland) Bill provides for new types of organisations that can be community bodies and so can apply to use the provisions to Scottish Charitable Incorporated Organisations (SCIOs) and allows other types of organisations to be added in the future by way of regulations
14	The Scottish Government should set up a short life working group whose task would be to improve information on the numbers and types of community land owners and the land that they own, and to develop a strategy for achieving this target	This is not legislative and being progressed. We have developed a series of work streams to meet the target and further consultation and engagement is planned.
15	Trust Ports and other forms of local community control over harbours, piers, slipways and similar coastal assets should be encouraged as a form of community land ownership. The Scottish Government should develop specific initiatives to assist this process.	The Scottish Government already encourage this and there is potential to consider this further as we develop the remit of the Short Life Working Group on community ownership.

16	The Scottish Government, using the evidence and recommendations for change presented in this report, should develop a policy statement, with clear direction to all parts of Government and its agencies, on the objective of diversified land ownership in Scotland, and a strategic framework to promote the continued growth of local community land ownership	Chapter 2 of this consultation contains a draft land rights and responsibilities policy statement for a 21 st century Scotland.
17	Improvements to Part 2 of the Land Reform (Scotland) Act 2003 should include widening its scope to cover urban areas; enabling appropriate community bodies to be constituted as SCIOs; allowing communities to define their area by a boundary on a map; increasing the period of registration to ten years and decreasing the requirements of re-registration; and more generally to make the legislation more straightforward and less onerous for local communities to use	Yes. Most of this is being addressed as part of streamlining Community Right to Buy as part of the Community Empowerment (Scotland) Bill.
18	The statutory land rights of local communities should include a right to register an interest in land, the existing right of pre-emption over land and a right to buy land, as well as rights to request the purchase of public land and to request Scottish Ministers to implement a Compulsory Purchase Order	This recommendation is under consideration.
19	Local Authorities should have the right to exercise a Compulsory Sale Order over an area of vacant or derelict land, and also that Community Councils, or appropriate community bodies, should have the right to request a local authority to exercise a Compulsory Sale Order	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of 2015.
20	The SG should ensure that there is an integrated legislative and financial support structure to help local communities in urban and rural Scotland buy and develop land and buildings. An adequate level of funding should be made available to meet an expected increase in demand for local community land ownership.	We have already announced that we are committed to extending the Scottish Land Fund until 2020. Ensuring support is well designed and available across the whole of Scotland is being considered as part of the Short Life Working Group on the 1 million acre target, so is nonlegislative.
21	The Scottish Government should publish new Guidance on State Aid to ensure public bodies take a more solution-focused and less risk-averse approach to their interpretation of the Rules. They should also enter into dialogue with the European Commission to improve the scope for public assistance to non-profit distributing appropriate local community bodies	We have revised guidance on the interpretation of State Aid rules. It is available here .

22	The Scottish Government should have a clear policy framework for the disposal of public property to appropriate local community bodies by the Government and associated public bodies, including a more integrated and focused approach to disposals for less than open market value where that is in the public interest	The Scottish Government has reviewed the chapter of the Scottish Public Finance Manual dealing with the disposal of assets and related property guidance. The revised guidance reflects the emerging communities agenda and encourages the appropriate disposal of assets to communities. This guidance ensures that consideration of community bodies form part of balanced value for money considerations to the disposal of public property. Additional guidance in relation to asset transfer requests and disposal at less than market value is being developed to support the proposals in the Community Empowerment (Scotland) Bill.
23	All local authorities should have a “Community Assets Transfer Scheme” to encourage greater local community land ownership, and that the arrangements in these Schemes should all follow the same consistently high standard of best practice	The Community Empowerment (Scotland) Bill as introduced provides a statutory framework for the transfer to communities of assets belonging to local authorities, the Scottish Ministers and other public bodies.
24	The types of support services provided in the Highlands and Islands should be made available to local communities in the rest of Scotland and that the Scottish Government should take a more integrated and focused approach to encouraging and supporting the growth of local community land ownership	Consideration is being given to the best ways to support communities across Scotland, as part of Short Life Working Group into 1 million acre target.
25	The Scottish Government should establish a Community Land Agency, within Government, with a range of powers, particularly in facilitating negotiation between land owners and communities, to promote, support and deliver a significant increase in local community land ownership in Scotland	Under consideration, does not necessarily require legislation.
26	Local authorities should be given a new power of Compulsory Sale Order	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report

		will be made to Ministers for their further consideration in course of 2015.
27	The Scottish Government should explore the feasibility of introducing a Majority Land Assembly measure	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of 2015.
28	The Scottish Government should investigate the potential of introducing an Urban Partnership Zone mechanism in Scotland	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of 2015.
29	The Scottish Government should encourage and support a greater emphasis on public interest led development	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of 2015.
30	Encouraging and supporting the development of a vibrant self-build sector should be an explicit aim of a housing strategy in Scotland	Importance highlighted in recent Local Housing Strategy guidance. Scottish Government is exploring possible financial and other support.
31	Establish a Housing Land Corporation, a new national body charged with the acquisition and development of sufficient land to fully achieve these objectives	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of 2015.
32	The Housing Land Corporation should have explicit performance targets that recognise the specific needs of small rural communities and an extended operational role to enable these to be addressed	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of

		2015.
33	The Scottish Government should introduce a more comprehensive legal framework for common property, which clarifies and modernises the rights and responsibilities of both the individual ownership and the collective governance of such property	Not at present. However, the Scottish Government is committed to improving guidance on issues such as responsibilities for common property in tenement blocks.
34	The Scottish Government should introduce longer and more secure tenancies in the private rented sector	Scottish Government is now consulting on a new tenancy

		regime for the private rented sector, which aims to improve security of tenure whilst proving appropriate safeguards for landlords, lenders, and investors.
35	The Scottish Government should make rapid progress in implementing the Land Use Strategy across the rest of Scotland beyond the two pilot areas	This question will be dealt with as part of the LUS Review. A refreshed LUS is due to publish in 2016. We have commissioned a full evaluation of the LUS pilots which will be available next year and will inform the LUS review. Non legislative.
36	The Scottish Government should produce indicative maps of the patterns of land ownership in the Land Use Strategy's current two pilot areas, and in other areas as the implementation of the Strategy develops	No. The two LUS pilots are now well advanced and focus on land use rather than land ownership. There are no plans to implement this recommendation.
37	The Scottish Government should ensure that the necessary mechanisms are in place for the successful implementation of the Land Use Strategy in the public interest	Yes. The experience of the two pilot authorities along with the evaluation of the process and a range of other evidence will be used to inform the first review of the LUS which is due in 2016. Non legislative.
38	The Scottish Government should map and monitor the patterns of land ownership in rural Scotland as part of implementing its Land Use Strategy	No. There are no plans to implement this recommendation in the future, as the LUS focuses on land use rather than

		ownership.
39	The Scottish Government should compile improved information on land ownership and undertake or commission more research into patterns of land ownership	This proposal is under consideration.
40	The Scottish Government should develop proposals to establish such an upper limit on the total amount of land in Scotland that can be held by a private land owner or single beneficial interest, in law	This proposal is under consideration.
41	The Scottish Government should develop a National Land Policy for Scotland, taking full account of international experience and best practice	We are consulting on a draft policy statement on land rights and responsibilities for a 21st century Scotland.
42	The Scottish Government should review this historic universal exemption of agriculture, forestry and other land based businesses from non-domestic rates, with a view to the phased introduction of non-domestic rates for these land based businesses	No plans to lift this exemption, although the business rates system is being kept under review ahead of the 2017 revaluation.
43	The Scottish Government should review the current exemptions from sporting rates and introduce a reformed	Proposed for inclusion in Land Reform Bill and included in this
	rates system as appropriate in the public interest	consultation.
44	There should be a detailed study of the scope and practicalities of introducing Land Value Taxation	Programme for Government announced that we will invite our local government partners to work with us to convene an independent commission to examine alternatives to the existing Council Tax system. All alternative systems will be within the scope of this work, although the approach taken will be a matter for the Commission once appointed.
45	Each of the tax exemptions and reliefs should be reviewed and reformed as necessary, to ensure that there is a clear and transparent public interest justification for the public expenditure through revenue foregone	Inheritance Tax and Capital Gains Tax are reserved to the Westminster Parliament under current constitutional arrangements.
46	Changes to the current fiscal regime should include structuring them to encourage an increase in the number of land owners in rural Scotland, in the public interest	The fiscal powers referred to by the Review Group are currently reserved to the Westminster Parliament.

47	Developing a modern and robust statutory framework for crofting should be a priority for the Scottish Government. The crofting community should be at the heart of any such process, and have a clearly defined role within it. Reducing the complexity of crofting legislation should be an underpinning principle of any such process.	Consideration of the issues is currently being done as part of the Crofting Sump.
48	The provisions in the Land Reform (Scotland) Act Part 3 impose unnecessary burdens on the crofting community in exercising the right to buy and that the ambiguities in the requirements that they have to fulfil can be exploited in the form of unwarranted challenges to the exercising of the right. The provisions of the Act should be amended to reduce these unnecessary burdens, to reduce the risk of unwarranted challenges and to make other improvements to the provisions.	This proposal is under consideration.
49	Crofting trusts or crofting community owners should be able to purchase Scottish Government crofting estates at less than open market value. Ministers should direct the SG to make provision for this to happen and to clarify the circumstances under which this can occur. The Scottish Government should take a more pro-active approach to facilitating and supporting such transfers	This proposal is under consideration.
50	There should be major improvements in the position of tenants under the Small Landholders (Scotland) Act 1911. These tenants should, like crofters, have a statutory right to buy their holdings.	The Scottish Government is currently working to develop a clearer understanding of the extent and distribution of small landholdings across Scotland. We will consider this recommendation alongside
		any proposals from the upcoming report of the Agricultural Holdings Legislation Review Group (AHLRG), in order to map out the potential ways to address the issues faced.
51	The requirement for registration is an unwarranted constraint on the right of pre-emption of secure 1991 tenants under the Agricultural Holdings (Scotland) Act 2003. The legislation should be amended to remove this requirement and to provide that all these tenants have first option on buying any part of their tenanted holding which their landlord decides to sell.	This is part of the on-going AHLRG's work and a full response will be made. AHLRG's final recommendations.

52	The position of secure 1991 tenant farmers and their families as part Scotland's rural communities, should be an important consideration in the Scottish Government's current review of Scotland's agricultural holdings legislation. The Scottish Government should take full account of social and local community factors in determining whether the introduction of a conditional right to buy for tenants with secure tenancies under the Agricultural Holdings (Scotland) Act 1991, would be warranted in the public interest	This is part of the on-going AHLRG's work and a full response will be made. AHLRG's final recommendations.
53	Part 1 of the Land Reform (Scotland) Act 2003 has delivered a progressive statutory framework for improved public access over land in Scotland, and that the main challenges involve continuing improvements in implementation. Scottish Ministers should as part of that, update the Guidance provided to access authorities under Section 27 of the 2003 Act.	Yes, we will issue updated guidance.
54	The current common law public rights over the foreshore, inland water and seabed should be replaced by statutory public rights that are integrated with the public's statutory access rights over land under Part 1 of the Land Reform (Scotland) Act 2003	Not at the present.
55	Following the reform by the Scottish Parliament of the arrangements governing the management and use of Scotland's fresh water resources, the riparian rights still attributed to adjacent and surrounding land owners in Scots property law should be reviewed and reformed to reflect the public interest in these resources as now defined	Not at the present.
56	The current system of District Salmon Fishing Boards based on property rights is no longer appropriate or adequate as part of the statutory arrangements governing freshwater fishing and fisheries. These should be abolished as part of putting in place a new improved statutory framework to ensure the sustainable management of Scotland's wild freshwater fish populations in the public interest.	Similar recommendations were contained in the Wild Fisheries Review Report and will be considered in that context.
57	The presumptive Crown property right in Scotland to salmon fishings should be abolished or at least not exercised by the Crown Estate Commissioners until it can be. The coastal and freshwater salmon fishings held as ancient possessions by the Crown should be conveyed by the Crown Estate Commissioners to Scottish Ministers.	This recommendation will be considered alongside the recommendations made by the Smith Commission in relation to the Crown Estate in Scotland.
58	The capacity in Scots law to create new ownerships of salmon fishing rights separate from the land over which the rights exist, should be ended	Not at present.

59	The Scottish Government should develop a clear policy framework and associated arrangements to deliver improved opportunities for members of the public to fish for wild freshwater fish in Scotland	Similar recommendations were contained in the Wild Fisheries Review Report and will be considered in that context.
60	Improvements should be made to the current statutory framework governing the hunting of deer in Scotland to ensure appropriate culls are carried out to adequately safeguard public interests	Proposed for inclusion in Land Reform Bill and included in this consultation document.
61	The Scottish Government should have an integrated programme of land reform measures to take forward the changes required to modernise and reform Scotland's system of land ownership	This proposal is under consideration.
62	There is a need for a single body with responsibility for understanding and monitoring the system governing the ownership and management of Scotland's land, and recommending changes in the public interest. The Scottish Government should establish a Scottish Land and Property Commission	Proposed for inclusion in Land Reform Bill and included in this consultation document.

Annex C – How to respond

1. We would like to hear your views on our vision for a Land Rights and Responsibilities Policy and the proposals we have set out for a Land Reform Bill. This paper covers a wide range of complex issues and we appreciate there is a lot to consider.
2. The proposed Land Rights and Responsibilities Policy and the suggested proposals for a Land Reform Bill are a package of measures. By balancing action in all these areas we can provide a basis for future land reform. However, we appreciate some people will have a particular interest in certain areas. We would encourage you to respond to any or all of those parts where you feel you have a contribution to make. We would also encourage you to set out your long term aspirations by responding to question 3.
3. We also welcome your views on the potential impacts of these proposals. Throughout the development process we have been considering the potential impacts the Bill may have. We believe a range and balance of measures will promote positive social, economic and environmental impacts.
4. We will carry out a full Equality Impact Assessment and Business, Regulatory Impact Assessment and Privacy Impact Assessment on the Land Rights Policy and on the proposals to be contained in a draft Bill. We will also consider the potential environmental impacts of any proposals and if a Strategic Environmental Assessment will be required.
5. We welcome your thoughts on the potential impacts, both positive and potentially negative, of any of the ideas in this paper and questions have been included at the end of the consultation paper for this purpose.

6. The consultation runs until 10 February 2015. A 10 week consultation will allow us to ensure your views are taken into account in order to introduce a Land Reform Bill in the next Parliamentary year.
7. There are a number of ways that you can respond:-

You can respond online on the [Scottish Government website](#).

You can respond by email by sending your response to LandReform@scotland.gsi.gov.uk

You can also respond in writing, by sending your responses to the address below. Please do not forget to include your Respondent Information Form, your response cannot be accepted without it. The Respondent Information Form is set out below.

Land Reform Team
B1 Spur,
Saughton House
Edinburgh
EH11 3XD

We would be grateful if you would use the consultation questionnaire provided or would clearly indicate in your response which questions or parts of the consultation paper you are responding to, as this will aid our analysis of the responses received.

Other formats of this consultation can be made available on request, please contact the Land Reform Team.

Annex D

Consultation Questions & Respondent Information Form

A Consultation on the Future of Land Reform in Scotland



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

LANDSCAPE INSTITUTE SCOTLAND

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

HUGHES

Forename

REBECCA

2. Postal Address

Winton Lea		
Pencaitland		
East Lothian		
Postcode EH34 5AY	Phone 07557442511	Email rahughes.wla@gmail.com

3. Permissions - I am responding as...

Individual / Group/Organisation YES
Please tick as appropriate

<p><input type="checkbox"/> (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Government web site)?</p> <p><i>Please tick as appropriate</i> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis</p> <p><i>Please tick ONE of the following boxes</i></p> <p>Yes, make my response, name and address all available <input type="checkbox"/></p> <p>Yes, make my response available, but not my name and address <input type="checkbox"/></p> <p>Yes, make my response and name available, but not my address <input type="checkbox"/></p>	<p><input type="checkbox"/> (c) The name and address of your organisation available to the public (in the Government library and/or on the Scottish Government web site).</p> <p><i>Please tick as appropriate</i> <input type="checkbox"/> YES but no address <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?</p> <p><i>Please tick as appropriate</i> <input type="checkbox"/> Yes YES <input type="checkbox"/> No</p>
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CONSULTATION QUESTIONS

Draft Land Rights and Responsibilities Policy

Q 1. Do you agree that the Scottish Government should have a stated land rights and responsibilities policy?

Yes No

Q 2. Do you have any comments on the draft land rights and responsibilities policy?

Comments

Aspirations for the Future

Q. 3. Considering your long term aspirations for land reform in Scotland, what are the top three actions that you think the Scottish Government should take?

Action 1: to ensure that appropriate land management mechanisms and guidance are available and encouraged to all landowners, public and private

Action 2: To ensure that all parties have clarity in the definition of terms used in the proposed LR policy such as “The Common Good”, “stakeholders”, “value”

Action 3: To run a long term monitoring exercise to see how effective the LR policy is over time, where and to whom, so that appropriate further actions can be developed to further the intentions of Land Reform in Scotland of widening land ownership for the benefit of all the communities of interest.

Proposals for inclusion in a Land Reform Bill

Proposal 1 - A Scottish Land Reform Commission

Q. 4. Do you agree that a Scottish Land Reform Commission would help ensure Scotland continues to make progress on land reform and has the ability to respond to emergent issues?

Yes No

Q. 5. What do you think the advantages or disadvantages of having a Scottish Land Reform Commission would be?

Comments

Advantage : To provide a “one stop shop” SLR Commission that will oversee progress on all the intentions of LR policy, but to draw on the expertise of other bodies and departments.

Disadvantage: Potential for more bureaucracy and so slow down land reform intentions

Q. 6. Do you have any thoughts on the structure, type or remit of any Scottish Land Reform Commission?

Comments: No comment

Proposal 2 - Limiting the legal entities that can own land in Scotland

Q. 7. Do you agree that restricting the type of legal entities that can, in future, take ownership or a long lease over land in Scotland would help improve the transparency of land ownership in Scotland?

Yes No

Q. 8. Do you agree that in future land should only be owned (or a long lease taken over land) by individuals or by a legal entity formed in accordance with the law of a Member State of the EU?

Yes No

Q. 9. What do you think the advantages or disadvantages of such a restriction would be?

Comments - no comment

Q. 10. How should any restriction operate and be enforced, and what consequences might follow if the restriction is breached?

Comments – no comment

Proposal 3 - Information on land, its value and ownership

Q. 11. Do you agree that better co-ordination of information on land, its value and ownership would lead to better decision making for both the private and public sectors?

Yes No

Q. 12. Do you hold data you could share or is there any data you would wish to access?

Comments

Landscape Institute Scotland does not hold any data on this topic however individual LIS members may have data that they may wish to share on landscape condition and capacity (or not) for accommodating landscape change.

Q. 13. What do you think the advantages or disadvantages of wider and more flexible sharing of land information would be and do you have any recommendations about how this can best be achieved?

Comments

LIS is of the view that if sustainable development is a key area of the SLR Policy then it would be sensible to have a central and accessible database on land information.

Proposal 4 - Sustainable development test for land governance

Q. 14. Do you agree that there should be powers given to Scottish Ministers or another public body to direct private landowners to take action to overcome barriers to sustainable development in an area?

Yes No

Q. 15. What do you think the benefits would be and do you have any recommendations about how these can best be achieved?

Comments

This proposal seems to be rather draconian for the purpose of achieving sustainable development which LIS believes could be achieved by using the Scottish Planning System more effectively and in a more democratic manner.

Q. 16. Do you have any concerns or alternative ways to achieve the same aim?

Comments

Proposal 5 - A more proactive role for public sector land management

Q. 17. Do you agree that public sector bodies, such as Forestry Commission Scotland, should be able to engage in a wider range of management activities in order to promote more integrated range of social, economic and environmental outcomes?

Yes No

Q. 18. What do you think the benefits would be and do you have any recommendations about how this can best be achieved?

Comments

Several key public bodies (not only but including FCS) could provide a very useful engagement system and process to promote integration of social, economic AND environmental outcomes for all stakeholders including communities and landowners.

Q. 19. Do you have any concerns or alternative ways to achieve the same aim?

Comments

Investigate the range of other public sector bodies apart from FCS which could help achieve this aim.

Proposal 6 - Duty of community engagement on land management decisions to be placed on charitable trustees

Q. 20. Do you think a trustee of a charity should be required to engage with the local community before taking a decision on the management, use or transfer of land under the charity's control?

Yes No

Q. 21. What do you think the advantages or disadvantages would be?

Comments

Inclusivity of all stakeholders/communities with an interest in the land parcel in question.

Q. 22. How should "community" be defined?

Comments

Should be "communities of interest" ie not only those living in or close by but also those with other engagement or involvement with a piece of land

Q. 23. What remedies should be available should a trustee of a charity fail to engage appropriately with the local community?

Comments
Guidelines for appropriate engagement should be required to be applied as part of a planning application or other approval processes.

Proposal 7 - Removal of the exemption from business rates for shooting and deerstalking

Q. 24. Should the current business rate exemptions for shootings and deer forests be ended?

Yes No

Q. 25. What do you think the advantages would be?

Comments
Not appropriate for LIS to comment

Q. 26. What do you think the disadvantages would be?

Comments
Not appropriate for LIS to comment

Proposal 8 - Common Good

Q. 27. Do you agree that the need for court approval for disposals or changes of use of common good property, where this currently exists, should be removed?

Comments

Not appropriate for LIS to comment

Q. 28. If removed, what should take the place of court approval?

Comments

Not appropriate for LIS to comment

Q. 29. Should there be a new legal definition of common good?

Yes No

Q. 30. What might any new legal definition of common good look like?

Comments

No comment

Q. 31. Do you have any other comments?

Comments

No

Proposal 9 - Agricultural Holdings

Q. 32. Do you agree that the Scottish Government should take forward some of the recommendations of the Agricultural Holdings Legislation Review Group within the Land Reform Bill?

Yes No

Q. 33. What do you think the advantages would be?

Comments
LIS - No comment

Q. 34. What do you think the disadvantages would be?

Comments
LIS - No comment

Proposal 10 – Wild Deer

Q. 35. Do you agree that further deer management regulation measures should be introduced to be available in the event that the present arrangements are assessed as not protecting the public interest?

Yes No

Q. 36. What do you think the advantages would be?

Comments
Where plant health or landscape and vegetation restoration success is not thriving due to grazing pressure then further deer management regulation could possibly help protect the public interest.

Q. 37. What do you think the disadvantages would be?

Comments
Potential loss of positive understanding of current landowners/deer management organisations of the wider public interests in land and landscape.

Proposal 11 - Public Access: clarifying core paths planning process

Q. 38. At present, section 18 of the Land Reform (Scotland) 2003 Act is silent on the issue of resolving objections to a core path plan consultation. Do you agree that access authorities should be required, in the interests of transparency, to conduct a further limited consultation about proposed changes arising from objections?

Yes No

Q. 39. Do you agree that section 20 of the 2003 Act should be clarified so that Ministerial direction is not required when an access authority initiates a core path plan review?

Yes No

Q. 40. Do you think that the process for a minor amendment to core path plan (as set out in section 20 of the 2003 Act) should be simplified to make it less onerous than that for a full review of a core path plan?

Yes No

LIS has no comment on Proposal 11

Assessing impact

Equality Impact Assessment

Q. 41. Please tell us about any potential impacts, either positive or negative, you feel the draft Land Rights and Responsibilities Policy or any of the proposals for the Bill may have on particular groups of people, with reference to the “protected characteristics” listed above. Please be as specific as possible.

Comments
LIS have no comment

Q. 42. What differences might there be in the impact of the Bill on individuals and communities with different levels of advantage or deprivation? How can we make sure that all individuals and communities can access the benefits of these proposals?

Comments
LIS are of the view that it may be necessary to have specific guidance associated with the Bill to be applied/introduced for areas and communities of physical or social deprivation to ensure that benefits are meaningful and accessible.

Business and Regulatory Impact Assessment

Q. 43. Please tell us about any potential costs or savings that may occur as a result of the proposals for the Bill, and any increase or reduction in the burden of regulation for any sector. Please be as specific as possible.

Comments LIS has no comment

Privacy Impact Assessment

Q. 44. Please tell us about any potential impacts upon the privacy of individuals that may arise as a result of any of the proposals contained in this consultation. Please be as specific as possible.

Comments
LIS has no comment

Strategic Environmental Assessment

Q. 45. Please tell us about any potential impacts, either positive or negative, you feel any of the proposals contained in this consultation may have on the environment. Please be as specific as possible.

Comments
LIS are of the view that the proposals so far appear to be more oriented to the rural sector while the Bill will need to be also applicable to land within urban or urban edge settings, or in areas of physical and social deprivation. As a result SEA may highlight potential uneven and undesirable outcomes of the Bill resulting in some of the underpinning intentions of the legislation not being met in some parts of Scotland.

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