

Land Reform in a Net Zero Nation

Evidence submitted to the Scottish Government

26 October 2022

This is a response to the consultation by the Scottish Government on [Land Reform in a Net Zero Nation](#).

General comments

CIH Scotland is the professional body for housing and we work to support our members to deliver good quality homes and services to people across all housing tenures. We believe that access to adequate housing is a basic human right and that providing good quality homes and services contributes to all of Scotland's National Outcomes.

We welcome the opportunity to feed into this consultation on Land Reform in a Net Zero Nation, which builds on previous land reform legislation and the [Community Empowerment \(Scotland\) Act 2015](#), and takes on board a number of recommendations from the Scottish Land Commission. Land plays a pivotal role in the development of new housing, and we are supportive of any measures which help to increase transparency over land ownership and make it easier for community bodies, including social landlords, to access land for development in rural areas where this can be more challenging.

Proposed mechanisms in the Bill, such as strengthened requirements for community engagement over the use of land and the prior notification of the intention to sell, have the potential to support the delivery of more community-led housing in rural areas. But while these measures are welcome, we have concerns over how easy it will be for community groups to navigate through the processes and procedures involved, particularly if they don't have specialist knowledge or expertise. We would therefore urge the Scottish Government to provide more detail as to what types of support and resources will be available for those looking to take advantage of these new rights.

In addition to this, the Scottish Government must also address some of the practical barriers to affordable housing development in rural areas. In its 20-year vision for housing, [Housing to 2040](#), the Scottish Government has committed to take action to ensure that those living in rural and island areas have access to "high quality, affordable and market housing" and to progress its target to deliver 110,000 affordable homes by 2032, with 70 percent of these for social rent and 10 percent for [rural and island communities](#).



More affordable homes, in both the social and private sector, are needed to support rural repopulation and help create sustainable communities, but the high cost of land, feasibility studies and construction can be a barrier for social landlords and community groups who are looking to develop affordable housing in rural areas. There is therefore a pressing need to encourage a more innovative and diverse range of organisations to deliver the different types of rural homes that are needed, alongside appropriate funding, support and resources.

Consultation Questions

**Responses have been given below to the relevant questions.*

Part 4: Criteria for large-scale holdings

Q1. Do you agree or disagree with the criteria proposed for classifying landholdings as 'large-scale':

a) A fixed threshold of 3,000 hectares Agree / Disagree / Don't know

Don't know.

b) Land that accounts for more than a fixed percentage of a data zone (or adjacent data zones) or local authority ward(s) designated as an Accessible Rural Area or Remote Rural Area, through our six-fold urban/rural classification scheme Agree / Disagree / Don't know

Don't know.

c) Land that accounts for more than a specified minimum proportion of a permanently inhabited island Agree / Disagree / Don't know

Don't know.

Please give some reasons for your answer and outline any additional criteria:

In a [discussion paper](#) on the legislative proposals to address the impact of Scotland's concentration of land ownership, published in 2021, the Scottish Land Commission acknowledged the significant challenges in determining a scale threshold for large-scale landholdings and suggested that the aim of any threshold would be to ensure that family farms and small businesses would not fall in scope, but that modest estates that could pose risks to the social, economic or environmental wellbeing of a community would. While it did not have a firm view on what this threshold would be, the paper suggested that "it may be reasonable to expect that, for example, holdings over 10,000ha would always be in scope, while those under 1,000ha would always be exempt."



We would therefore question how the figure of 3,000 hectares, as set out in the consultation paper, was decided upon and whether or not this will go far enough to include those 'modest estates' whose land ownership or activities may have a significant impact on rural communities.

Furthermore, [research](#) into large-scale landholdings by the Scottish Land Commission, published in 2019, found that while there is no automatic link between large scale landholdings and poor rural development outcomes, there is convincing evidence that *highly concentrated* landownership, can have a detrimental effect due to dominant landowners being able to decide whether communities can access land, for what purpose and for what price. It is therefore important that the legislation also fully considers this link around the pattern of land concentration and the impact on rural communities, alongside considerations around the scale of landholdings.

Part 5: Land Rights and Responsibilities

Q4. We propose that there should be a duty on large-scale landowners to comply with the Land Rights and Responsibility Statement and its associated protocols. Do you agree or disagree with this proposal?

Agree / Disagree / Don't know

Agree.

Please give some reasons for your answer:

See comments below.

Q6. Do you think the proposal to make the Land Rights and Responsibility Statement and its associated protocols a legal duty for large-scale landowners would benefit the local community?

Yes / No / Don't know

Yes.

Please give some reasons for your answer:

Proposals in the Bill to introduce a duty on large-scale landowners to comply with the Scottish Government's [Land Rights and Responsibility Statement](#) and its associated protocols will help to ensure that land-owners are upholding the values set out in the statement to contribute to the "strong and dynamic relationship between land and people, where all land contributes to a modern and successful country, and where rights and responsibilities in relation to land are fully recognised and fulfilled."



By strengthening compliance to these values, this could create further potential for community groups to engage with landowners to make the case for the development of more affordable housing in an area where there may be a particular need.

Q7. Do you have any other comments on the proposal to make the Land Rights and Responsibility Statement and its associated protocols a legal duty for large-scale landowners?

For those large-scale landowners who are also private landlords, increased regulation in the private rented sector, alongside rising interest rates and the Scottish Government's emergency rent freeze legislation, has led to concerns around private rental properties being sold off or converted to holiday lets, further exacerbating the shortage of affordable homes in rural areas.

The latest findings of the [Rent Better research project](#) suggest that around half of private landlords are considering leaving the sector in the next three to five years, and that fewer new landlords are entering the market. The loss of private rented homes was particularly clear in rural areas. For those landlords leaving because of the cost of meeting energy efficiency standards, it was found that the homes were likely to be sold into ownership or into the "shadow PRS" to be let by unregistered landlords with no intention of carrying out costly improvements.

In order to try to mitigate some of this risk, it is therefore important that any regulations support compliance and do not place any additional burden on those private landlords who may be in an already difficult financial position.

Part 6: Compulsory Land Management Plans

Q8. We propose that there should be a duty on large-scale landowners to publish Management Plans. Do you agree or disagree with this proposal?

Agree / Disagree / Don't know

Agree.

Please give some reasons for your answer:

See comments below.

Q12. Do you think the proposal to make Management Plans a legal duty for large-scale landowners would benefit the local community?

Yes / No / Don't know



Yes.

Please provide some reasons for your answers:

Proposals to make larger landowners publish strategic land management plans setting out how land will be used will again help to improve transparency and will also provide further opportunities for communities to engage with landowners about how land in their area is managed.

This will also place a duty on landowners to take into account the views and needs of their local communities and may also encourage more community groups to voice concerns or contribute ideas on how the use of land could be improved.

As outlined above, this could create further opportunities for community groups to compel landowners to take housing need into consideration in planning how land will be used and would also help to facilitate more regular engagement between community bodies and those who own and manage land, helping to create stronger working relationships between those who own the land and the communities who live and work on it.

Part 7: Regulating the market in large-scale land transfers: a new Public Interest Test, and a requirement to notify an intention to sell

Q14. We propose that a public interest test should be applied to transactions of large-scale landholdings. Do you agree or disagree with this proposal?

Agree / Disagree / Don't know

Agree.

Please give some reasons for your answer:

Please see comments below.

Q15. What do you think would be the advantages and/or disadvantages of applying a public interest test to transactions of large-scale landholdings?

The proposals to include a new 'public interest test' for the acquisition of large scale land-holdings, based on [recommendations](#) from the Scottish Land Commission, will help to provide greater transparency and accountability in relation to the activities of land-owners by assessing whether there is a risk that excessive control of land could go against the public interests of a community. This could include potential harm to the social, economic or environmental wellbeing of a community.



A public interest test would help landowners to reflect on these possible impacts and could also help prompt landowners to think more widely about the positive potential of their land and how it could be better used to benefit the local community. This could include considerations about the development of more affordable housing to help support population growth and enhance the economic prosperity of a rural community.

Q25. We propose that landowners selling large-scale landholdings should give notice to community bodies (and others listed on a register compiled for the purpose) that they intend to sell.

a) Do you agree or disagree with the proposal above?

Agree.

Please give some reasons for your answer:

Proposals in the new Bill to widen the scope of community bodies who are entitled to be notified of an intention to sell land are welcome, and again, have the potential to unlock greater opportunities for the development of more affordable, community-led housing in rural areas by ensuring that all potentially interested parties are aware of land for sale in their communities.

Currently, landowners are only obliged to notify a community body of a potential sale if that body has registered a pre-emptive right of purchase over land that they have a particular interest in.

However, under the new proposals, landowners looking to sell a large-scale holding would have a duty to give notice to all community bodies in the surrounding area, regardless of whether or not they have a pre-emptive right of purchase.

This change will help to increase transparency and engagement with communities around the sale of land but it is important that landowners properly adhere to this duty and that both individuals and community bodies are aware of these new rights and are supported to take the necessary steps to progress with a purchase if they wish to do so.

Q26. Do you have any other comments on the proposal that landowners selling large-scale landholdings should give notice to community bodies that they intend to sell?

A consistent feature of previous land reform legislation in Scotland has been a focus on enabling and supporting greater community engagement and more community ownership of land and assets.



Previous Land Reform Acts in [2003](#) and [2016](#) allowed communities to have more opportunities to influence the use of, or own, the land on which they live and the passage of the [Community Empowerment \(Scotland\) Act](#) in 2015 further strengthened these rights.

Proposals in the new Bill seek to build on this by encouraging and supporting responsible and diverse land ownership, increasing transparency over how land is used, and addressing issues of fairness, equality and social justice through strengthened requirements for engagement with communities.

Community engagement and participation can be hugely beneficial in helping to develop sustainable neighbourhoods and in delivering services which are tailored to meet the needs of local communities, including the delivery of affordable housing.

Strengthened rights around community engagement have the potential to unlock greater opportunities for the delivery of community-led housing developments in rural areas, where the delivery of mainstream housing programmes may be limited or unavailable altogether.

However, the extent to which these new rights of engagement are used will be driven by demand from within communities and we have some concerns around how easy it will be for some community groups to navigate through the processes and procedures involved, particularly if they don't have specialist knowledge or expertise.

While social landlords are more likely to have this knowledge, as well as the capacity to support greater community engagement, they may be faced with different barriers such as access to adequate funding and support to drive projects forward, particularly in rural areas where housing development is more expensive.

It is therefore important that the right support is provided to help facilitate participation by all those who wish to take advantage of increased opportunities to acquire or influence the use of land. This could be via online platforms for community groups to share information, knowledge and expertise on bidding for land or taking control of community assets, or through the development of specialist networks offering advice and information, and providing signposting on how and where to access funding. This should be supported by a clear and comprehensive communications strategy to ensure that community bodies are aware of their new rights and know how to easily access this support and information.



About CIH

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple - to provide housing professionals and their organisations with the advice, support, and knowledge they need to be brilliant. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world. Further information is available at: www.cih.org.

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