

Cross-Party Group on Rural Policy

4th December 2024, 18:00-19:30 (Hybrid)

AGM, followed by discussion: "Does Part 1 of the Land Reform Bill address land reform issues or not?"

Minutes (unapproved)

Present

MSPs

Edward Mountain MSP
Emma Harper MSP
Ariane Burgess MSP
Finlay Carson MSP
Jamie Halcrow Johnson MSP
Tim Eagle MSP

Speakers

Hamish Trench
Steven Young
Andy Wightman

Scottish Land Commission
Scottish Land and Estates
Independent Researcher

Non-MSP Attendees

Kate	Anderson	Fraser	Darroch
Toby	Anstruther	Josh	Doble
Wendy	Barrie	Carey	Doyle
Wendy	Barrie	Gail	Foster
Christine	Beaton	Jacqueline	Frankitti
Naomi	Beingessner	James	Glendinning
Douglas	Bell	Jamie	Grant
Douglas	Bell	Rhoda	Grant
Alan	Brown	Rhoda	Grant
Imogen	Cadwaladr-Rimmer	Alexa	Green
David	Cameron	Vanessa	Halhead
Rob	Clarke	Alistair	Hamilton
Victor	Clements	Liam	Hamilton
Gemma	Cooper	Shannon	Harris
Cora	Cooper	Kenneth	Harvey
Rachel	Creaney	Anne	Hastie

Sandra	Holmes	Jane	Phillips
Abigail	Hudson	Kathie	Pollard
Jim	Hume	Camden	Polzin
Charles	Humphries	Margaret	
Samurath	Jabir	Elizabeth	Pool
Osla	Jamwal Fraser	Daniel	Rad
Patrick	Kirkham	Gillian	Rae
Kate	Lamont	Anne	Rae Macdonald
Elizabeth	Lawson	Pete	Ritchie
Elizabeth	Lawson	Arianna	Roehrich
John	Macdonald	Peter	Ross
James	MacKessack-Leitch	Peter	Ross
Calum	MacLeod	Lucy	Rothenberg
Mary	MacLeod Rivett	Claudia	Rowse
Sarah	Madden	William	
Catriona	Mallows	Douglas	Scott
Catriona	Mallows	William	
Ian	McCall	Douglas	Scott
Ewen	McLachlan	Anna	Sellars
Carol	McLaren	Alan	Short
Kirsty	Mcluckie	Sarah	Sidgwick
Kirsty	McLuckie	David	Skene
Michelle	McWilliams	Bryn	Smith
Ian	Merrell	Aimee	Spence
Dave	Miller	Ninian	Stuart
Malina	Modlich	Bryan	Stuart
Penny	Montgomerie	Serena	Sykes
Fergus	Murray	Kirsty	Tait
Jenny	Murtagh	Rachel	Tennant
Francis	Naab	Kaarina	Thompson
Bryony	Nelson	Kelvin	Thomson
David	Nicholson	Jo	Vergunst
Lorna	Pate	Ana	Vuin
Lorna	Philip	Rowan	Wright

Apologies

MSPs

Rhoda Grant MSP

Rachael Hamilton MSP

Non-MSP

Anne Hastie (Chair East Lothian Council Rural Economy Group)
Alistair Hamilton
Theona Morrion (CoDEL)
Harriet Donald
David Henderson-Howat
Jennifer Campbell
Jim Hume
Ann Packard
David Glass (Rural Matters)
Davy McCracken (SRUC)
Sarah Skerratt

Agenda Item 1

Welcome, introductions and apologies

Edward Mountain MSP (chair and co-convener) welcomed everyone to the meeting. He noted the MSPs in attendance and apologies received.

It was confirmed that all participants had been emailed the agenda and the list of attendees and that the Rural Policy Centre (RPC) as Secretariat has a note of all apologies received and would list them in the meeting minutes as usual.

It was noted that speakers' presentations (slides if used and a video recording) would be uploaded to the CPG webpage on the RPC website along with the unapproved minutes. It was confirmed that the meeting would be recorded (no objections to this were received).

Group members were encouraged to send the RPC an email if amendments were required in the unapproved minutes. The minutes will be formally approved at the next meeting and an approved version uploaded to the website thereafter. It was noted that the Secretariat will include any action points, links etc. in the meeting minutes.

Participants were reminded to mute their microphones unless speaking and to raise their hands to speak or to type their comments/questions into the chat function.

Agenda Item 2

Approval of minutes from last meeting and actions

Edward Mountain motioned to approve the minutes of the previous meeting 'Community Benefits, Tax and Land Value Capture', which took place on the 4th October 2024. The Secretariat confirmed that no comments had been received on the unapproved minutes. Minutes were approved by Ian Merrell (SRUC) and seconded by Emma Harper MSP. The minutes of the October meeting were approved. No actions were identified.

Agenda Item 3 – CPG Annual General Meeting (AGM)

Edward Mountain MSP explained the AGM requirements and procedures.

No proposals had been received for the convenor or secretariat roles, and current office bearers confirmed that they are happy to continue in their roles.

The continuation of current officers bearers was proposed by Peter Ross and seconded by Alexa Green.

Officer bearers thanked all for the support, and confirmed that they would provide the annual return paperwork to Parliament within the required timescale following the meeting.

Agenda Item 4 - Discussion

Introduction provided by Edward Mountain MSP, noting that the theme of the meeting was: *Does Part 1 of the Land Reform Bill address land reform issues or not?*

Three short presentations were given (with no slides), followed by questions. A summary of the presentations and discussion is provided below.

- **Hamish Trench**, Scottish Land Commission (SLC) provided the first presentation.
 - Yes, the Bill addresses land reform issues. SLC welcomes the Land Reform Bill. However, SLC believes that the Bill can be strengthened and simplified. He noted that there are also land reform questions unaddressed by Bill – so work is needed on these issues in addition to this Bill.
 - Scale and concentration are important concepts for this Bill – concentration of power and decision-making has impacts on economic, social, community, and environmental outcomes. SLC research on this here, [Scale and Concentration of Land Ownership - Governance & Ownership - Our work - Scottish Land Commission](#).
 - Part 1 takes significant steps to address these issues:
 - The Bill is focused on large-scale landholdings. It introduces Land Management Plans, and community engagement requirements, which are welcome. These need to dovetail with other plans, like Whole Farm Plans.
 - Prior notification of sale will make the land market work better, but could be overly complex as currently drafted in the Bill text.
 - SLC need resource to administer the Bill.
 - Community ownership is not a focus of the Bill. Criteria for land of community significance may be a useful addition. Community Right to Buy refinements are needed to support the prior notification proposals.

- The lotting proposals and transfer test are notable. The transfer test is different to the public interest test proposed by SLC. This could be strengthened if there was a mechanism for Scottish Ministers to buy and hold land upfront.
 - The Bill in its current form is welcomed and important.
 - However, the Bill doesn't address some aspects of land reform, including: the need for revisiting community ownership and reforms of the Scottish Land Fund, Community Right to Buy (now being reviewed by Scottish Government), tax (Scottish Government will work with SLC on this), climate objectives, opportunities for people to own and use smallholdings e.g. crofting, land supply for housing and development, compulsory purchase reforms, and public landownership (particularly in rural housing land supply). There is a lot beyond this Bill – indeed beyond any Bill - in terms of land reform.
 - We shouldn't be thinking of land reform as one big Bill every 10 years (which has tended to be how progress on the issue has worked in Scotland to date), but an ongoing programme across several topics.
 - Land reform is often described as a journey in Scotland, but even long journeys have a destination, to give focus. SLC believes this Bill is a very important step on that journey and the organisation will continue to advise on ways to strengthen and perhaps simplify.
 - Beyond this Bill, as a Commission the SLC will certainly be engaging on what further reforms are needed to get us to the destination. We will be engaging collaboratively and widely.
- **Steven Young** Director of Policy, Scottish Land and Estates (SLE)
- The starting question is what are we trying to achieve with this Bill? Some elements are workable, others are not.
 - In principle these are fundamental issues: this Bill is about concentration of landownership, but we are using scale as proxy for that. Are we using the correct metric?
 - Bill is not tight and joined up, it is loosely based on SLC advice.
 - Land Management Plans
 - SLE supports transparency of ownership, use and management of land. Land reform ambition, vision and objectives are needed around transparency. Many estates do this already, however, we need to be aware of commercial sensitivity, and replication. There is already much relevant legislation on land use compliance.
 - There are issues around how big this Bill and it's implementation will be – if it is to be reviewed every 5 years, this means hefty costs. We don't want to see bland non-ambitious plans because businesses are only including what they can achieve in the timescale. This aspect is potentially workable with some amendments.
 - The breach process needs to be set out.

- Prior Notification of Sales.
 - Early conversations from community groups looking to purchase land are good. Prior notification provides opportunities for community groups to buy land – but are there realistic timescales?
 - Are there unintended consequences with the Community Right to Buy and Scottish Land Fund?
 - There should be the ability for communities to highlight areas of community significance.
 - Should this be extended to be anyone not just community groups?
 - Crown Estate Land accelerator pilot – how does that relate?
 - Do we have the correct balance of different rights, e.g. tenant farmers?
 - Lotting and transfer test
 - Initial recommendations were for this to be on the buyer not the seller. Does that make more sense?
 - Potential to reduce values, how do you compensate for that?
 - What about strategic land – e.g. cabling for renewable energy; where is lotting not appropriate?
 - Land and Communities Commissioner role important here but difficult.
 - We will need to understand valuation issues, such as how those practically impact estates.
 - Would there be a prohibition of sale affecting those who are currently borrowing against the land?
 - Concerns about time and costs involved. How legally contentious will this be?
 - Concluded with questions:
 - Are we looking at the right metrics of success? Are we measuring concentration or scale?
 - Are we supporting scale of community ownership or being more strategic about what they own?
 - Value for public purse, impact on SLC?
 - What is progress on completing the land register and providing more landownership transparency?
 - Regional Land Use Partnerships, Local Place Plans, Agriculture and Communities Bill ... how do we pull all of these together?
 - Need to define success in order to say whether its successful.
- **Andy Wightman**, Independent Researcher
- Bluntly, no. More work should have been done prior to introduction. Gave evidence yesterday to Scottish Parliament Net Zero, Energy and Transport Committee on this in detail.

- Depends what you mean by land reform. It is a broad topic dealing with a wide range of issues, tenure, ownership, land use, the nature of power, who has it and how it is exercised. The land reform definition from the Land Reform Review Group (2014): measures that modify land governance “in the public interest”... There are three key issues – tenure, ownership, land use.
- The history of land reform in Scottish Parliament has tended to focus on community ownership, yet we need to fix the foundation of how the land is owned in Scotland, such as tenure systems, fiscal regime etc. And then let landowners do what they like.
- This is the weakest Land Reform Bill to ever be introduced to Scottish Parliament.
- He has conducted an assessment of land sales larger than 1000 ha and there are very few – the Bill proposals will not make a difference. There is a low likelihood of proposals being successful.
- However, if the thresholds are lower, then there will be increased notifications, which increases administration.
- Land Management Plans – this is the one part which could be useful. But these plans are not sufficiently long term to deliver the change needed, and there is no obligation to follow them apart from a financial penalty. They are not binding on a successor.
- Prior notification allows for late registration for Community Right to Buy, but very few successful late Community Right to Buys. Likelihood of applications being successful is low. Not practical.
- Lotting will impose greater cost. Intent of lotting is to promote landownership diversity but there is nothing to prevent re-amalgamation after lotting. Lotting is only triggered if land is single parcel or contiguous, which is difficult to define and manage. Example given of Gresham House properties owned across Scotland.
- “This is a job creation scheme for civil servants.”
- The evidence suggests that the concentration of land ownership is actually increasing not decreasing in rural Scotland. The number of rural landowners is falling. If the Scottish Government wants to do what they say, this Bill does not deliver on that objective. It also introduces additional legal and administrative burden.
- His [recent research identifies a concentrating pattern of ownership](#). If the Government’s intent is to address that pattern, a Bill that will actually do that is needed.

Key issues raised in the discussion included:

Edward Mountain (EM) question: The Land and Communities Commissioner is going to sit within SLC. Is that appropriate? Should they have some objectivity/distance?

Hamish Trench (HT): The Bill proposes a new Land and Communities Commissioner to sit on the board of the SLC with distinct statutory functions. This will draw on experiences of the Tenant Farming Commissioner.

It will need to be able to draw on expertise from SLC. This will be a challenging role. There is a need to ensure the role has the support it needs. There is precedent for how it might work.

Josh Doble question: Why isn't the public interest test more explicitly in the Bill and what are the ramifications of that? Should it have been?

Steven Young (SY): Public interest can be broad and varied. Community sustainability is introduced as a proxy for public interest. It would help if public interest was tightly defined.

Andy Wightman (AW): Public interest framed as being a specific test that applied to the buyer. The whole Bill should by definition be in the public interest.

HT: public interest is implicit in terms of community sustainability but it would be good if this was more explicitly laid out.

Glenfeshie Estate and Kinrara Estate discussed as examples of land and the public interest.

EM question: Should the LMPs be written for land and should the incoming buyer be bound by that LMP?

AW: LMP should be long-term but reviewed every five years. There is a logic to long term binding LMPs if they are delivering long term outcomes like climate change mitigation. Long-term and binding commitments are less appropriate for developments like housing or other economic opportunities. Binding commitments would then provide a firm basis for assessment of public interest.

How would LMPs be passed onto future owners? There is no EPC equivalent. We can't measure long term progress. If we could measure this, we could get market value and manage the market.

SY: Disagrees that successors should have to follow an LMP. We need to have land use change, what if they want to improve degraded land?

Pete Ritchie: Question for Andy Wightman: How can we 'fix the foundations' and give landowners the freedom to manage as you suggest?

AW: Need to fix tax on land. Capital Gains Tax and inheritance tax are taxes on an event [so people are penalised by it/seek to delay]. Instead need to design a good recurrent tax.

It is helpful to think about destination. Want to change rules and allow everyone to get on and work within that. Change large estate holdings and the way people

own/use/access land in rural and urban areas. Going in wrong direction recently in terms of concentration of ownership.

HT: We need to change how people can use and access land. Urban as well as rural. We need to afford more people the ability to own and use small-scale landholdings, new crofts, etc. This needs to go beyond just large estates and opening up opportunities to own land in lots of ways.

SY: There is a need for better communications with communities and better transparency. Arguably we need less focus on ownership of land, and more opportunities for land use access. Land tenure (part 2 of the Bill) also needs addressed - there is a shrinking tenanted and agricultural sector – how can we improve access?

AW: Land Reform Bill lacks a destination. We are going the wrong way in terms of landownership concentration. He also recently published [research on forest ownership](#) – the areas have expanded but number of owners had reduced. Instead, we can look at the example of Finland: 125,000 landowners collectively own one of the biggest vertically integrated forest products companies. The benefits are more widely shared and it is possible to get economies of scale.

Kirsty Tait: What will be the consequences if things haven't changed in 10 years time?

AW: Landownership concentration will continue.

New investors are good, but we need to recognise that they don't need to own the land (or all the land) to deliver business models. There are examples of companies who are investing in existing landowners, including communities, but we need to see more of this. To invest in Scotland you don't need to own it.

HT: Continuation of localised monopoly of control. Continued impact on communities, housing and land for development. We need to be more innovative. There could be a lack of opportunity in future with monopolies – we need to unlock the opportunities to make more of land. We need innovation from different people, right across the sectors.

We could look more closely at different landownership governance models. Now we have a situation where land is owned privately, publicly, or by communities – there are alternatives such as elsewhere in Europe.

SY: Policy is currently driving land use change, which will have an impact in that 10 year timescale.

We are seeing more joint venture models. For example, bringing capital in and using skills and knowledge that's there already. The bubble has deflated somewhat in terms of demand/price of land recently so that is changing. Shaping is needed as we go.

Arianne Burgess: What can we do on tax?

HT: Tax reform needs cross party and public support. We need to bring all land onto the valuation role. Data and information is key here - we need to complete the land register.

We need to look at tax in the round. We need to make it more workable – start from the bottom.

AW: Market needs light touch strategic regulation. Miralees review on Land Tax in 2010 looked at this, but the UK and Scottish Government just ignored it.

Ian Merrell: What needs to be done on transparency of ownership and completion of the land register?

AW: European countries have a system of mapping land which includes a local cadastral map as well as a title-based system. In Scotland we don't have an equivalent local register.

There was a Land Reform Review Group recommendation to complete the land register, and subsequent political commitment to do so was given, but this has not been implemented.

Challenges in Scotland of having registers that are hard to interpret (land register, community interest in land, etc), penalties for non-compliance are relatively low (as per register of controlling interests in land). Overall too complicated.

The Land Register is fundamental – resources are a challenge. Landownership information should not be on a private website, it should be on a Scottish Government website.

EM: Will the Bill make a difference and should it be passed?

HT: Yes, and it can and should be improved as it does so. But we also need to progress land reform between the Bills.

AW: The Bill will pass, I don't wish it to not pass. But some things should be removed. They won't achieve the desired outcomes and will annoy people. Need to strengthen Land Management Plans, smallholders section.

SY: Yes, it will make a difference, but not all of it positive. There will be unintended consequences. We need good, robust legislation – and hefty amendments will be needed to make it so.

Action points

None.

AOB

Edward Mountain MSP concluded the meeting by thanking the speakers and the audience for their contributions to the discussion.

Next Meeting

The next meeting will be on Wednesday 4th March 2025. Topic to be decided, more information to follow shortly.