

# Land Reform Review Group (LRRG) Call For Evidence

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NFU Scotland was formed in 1913 and is Scotland's leading agricultural organisation representing 9,000 farmers, crofters, growers, estates and other supporters. This complex and unique cross section of farming interest enables NFU Scotland to hold an unparalleled position with the rural sector.

NFU Scotland exists to represent its members' interests, and to best serve the requirements of the agricultural industry. NFU Scotland believes that the focus of the LRRG should be moved away from issues of land ownership, and instead examine ways in which to encourage constructive and positive land management, opportunities for local communities should take primacy over ownership or tenure. Rural Scotland is a diverse and challenging environment, where a tapestry of land uses and land tenures seeks to deliver the best value from our most important asset - the land. Any land reform review that seeks to develop "innovative and radical proposals that will contribute to Scotland's future success" must also avoid any unintended consequences that would adversely impact on the future prosperity of agricultural and other land based businesses.

A progressive forward thinking approach is essential for the future sustainability of land based businesses in rural Scotland. Only by establishing an operating environment that encourages long term investment will it be possible to provide a stable economic climate for a new generation of young people and expanding existing farm businesses to reap the rewards from agriculture and, consequently, for rural communities to thrive.

NFU Scotland recognises the multiple benefits and outcomes that our land must deliver, however the increasing importance of food production must be a significant priority and be reflected in our future policy. NFU Scotland will contribute towards the long term roadmap that is required in the best interests of the agricultural sector. Any reforms which take place must underpin a framework which contributes to a varied and diverse agricultural sector which can respond to increased demand for quality food while developing pathways not only for competitive production, but opportunities for new entrants to contribute to our future.

NFU Scotland would like to make the following points in relation to each of the issues identified by the LRRG in its call for evidence.

## **Expand community ownership of land, housing, and other assets in both town and country and all parts of Scotland**

- NFU Scotland believes that it is imperative to remove the link between land ownership and actual land management and use. The legal ownership of land is not as important as how the land is utilised. All land use policy

drivers (legislation, incentive and advice) should work coherently to encourage positive land management practices. The concerns over land ownership that have been expressed by some NFU Scotland members are often driven low investment and a lack of opportunities in local communities. These issues should be addressed.

- Community ownership of land, housing and other assets can optimise the potential of cohesive communities, however they do not provide a panacea for resolving any particular rural development issues. In fact, the perceived threats around forced community ownership serve only to stifle inward investment and positive composite working practices, and this should be avoided.
- More constructively, the development of templates for best practice to underpin collaboration within communities could provide a meaningful way forward.
- It is imperative that positive land management is encouraged so as to ensure a wide range of benefits for rural communities. There should be greater incentives for the owners and occupiers of land to work with local communities to create wider mutual benefits. Equally, many of the existing benefits that are derived from current land use practice may be intangible, however they are never the less significant and policies should be developed to enhance public and community interests.
- Rural communities are diverse and often represent a wide range of interests, some of which can be conflicting. There can be differing definitions of community that are focussed on a range of priorities. NFU Scotland therefore believes the expectations of communities can be best met through the encouragement of positive working relationships with land owners and managers. In turn this can only be achieved by good working partnerships, and achieving this does not necessarily require a change in ownership in favour of the community.
- It is also prudent to consider that there may be some instances where this may be a damaging occurrence. Diverting financial resources, either public or private, into ownership of land can deprive land based enterprises of much needed investment to enable the continuation of the benefits associated with that land.

### **Diversify and broaden ownership of land in Scotland, where more land is owned by fewer people than anywhere in Europe**

- Although private ownership of land in Scotland is dominant, large tracts of this land are managed to contribute towards sustainable and diverse businesses that underpin rural economies and communities. The enterprises of some larger and more physically disadvantaged swathes of land are often uneconomic and unviable without continued public support (agricultural support payments) or private investment derived from other sources.

- NFU Scotland does not consider that land ownership in Scotland requires to be diversified. As previously stated, it is imperative that that positive land management practices are encouraged regardless of the ownership or tenure of that land. Changes in ownership should not be sought as a solution to issues which can be addressed via other means.
- It is important to note that land managers are intrinsically linked with local communities and maintaining a mosaic of land managers embedded in local communities should be a priority.

### **Encourage (or oblige legislatively) owners of land to give local communities a greater say in how land is owned and managed**

- NFU Scotland is aware of many land owners and managers that already actively involve local communities in projects concerning land management and general land use practices. There may be scope to encourage and facilitate better communication between land owners and managers and other interests within local communities.
- It may be that a lack of awareness around current and previous practices involving community engagement has led to the perception that not enough is carried out. There is scope to examine this and to learn from practices which are already functioning well to provide multiple benefits to both land owners and managers and local communities. Work to improve relationships would serve to reduce issues and any subsequent conflicts between land owners and managers and communities with a vested interest.
- NFU Scotland considers that whilst it should be possible to involve local communities more in land management practices, this should not be at the expense of land use best practice. There is a wealth of knowledge within the land managers sector, which should be protected and utilised to best advantage.
- NFU Scotland considers that the emphasis should be removed from forcing (“obliging legislatively”) land owners and managers to give communities a greater say in land ownership and management, and instead diverted to involving communities in improved collaborative working and projects which can deliver direct tangible community benefit.
- NFU Scotland believes that developing the role of community councils in the local planning system to facilitate community based development will be a pivotal part of future engagement.

### **Make it cheaper and easier for Forestry Commission land and other land in public ownership to be transferred to others**

- NFU Scotland believes that much of the national forest estate, already in public ownership, already delivers a host of public and local community

benefit, and does so at costs that represent good value for money for the taxpayer.

- NFU Scotland does not see merit in transferring significant areas of public sector land to community ownership without the demonstration of clear benefit, as that would come at some financial cost and divert much needed resources from being used for the management of that land.
- Furthermore, there has to be a question as to whether communities would have either the skills or resources to adequately manage areas such as woodlands that are already managed on their behalf in many circumstances.
- NFU Scotland does see merit in further consideration being given to “community partnerships”. The partnership approach optimises community landscape and environmental benefits.

### **Improve the supply and lower the price of land for affordable and other housing in both town and country**

- NFU Scotland recognises that there is a substantial need for affordable rented property in rural Scotland . Let property often comprises a substantial and valuable portion of income for both farm and estate businesses, and the importance of this should not go unrecognised. However, the upkeep of residential property is both time consuming and expensive, due to legislation which governs residential letting.
- Maintaining and improving the rural housing stock should be incentivised, and this should include encouragement to provide affordable housing. Grant incentives should be more tailored towards encouraging renovation of derelict rural property.
- NFU Scotland recognises that there is a current issue with the application of Council Tax to rural empty properties. There is a considerable rural housing stock which is currently unviable. Amending this to allow an exemption of Council Tax for properties undergoing restoration would assist in encouraging these properties to the letting market, which would in turn serve to address the shortage of rural housing.
- There is a role for local planning in recognising the development benefits of clusters of housing within rural landscape to underpin sustainable social structures, and recognising the developing age profile of many rural populations.

### **Help create new pathways, for younger people especially, into farming and crofting**

- NFU Scotland considers that there is a clear need to create pathways for younger people into farming and crofting. Farming has an ageing population, and there is a clear need for restructuring of the industry to allow some to retire and others to take up the reins. This requires a host of

issues to be addressed, from planning permission for housing to succession planning. For example, the current structure of inheritance tax means there is an incentive to remain farming until death.

- NFU Scotland recognises that there are substantial barriers for the new generation who are trying to enter the agricultural sector. The reasons for this are varied and require careful consideration, but the effect that this has on the future viability of the agricultural sector should not be underestimated.
- For the future of the industry, it is absolutely vital that the warning signs are not ignored. There must be incentives for landlords to let land to the new generation. Tenancy structures must be robust and ensure that both landlord and tenant rights are protected, and to ensure that positive farming practices are followed.
- Access to land for tenancies is currently extremely difficult. Any perceived threat of an absolute right to buy can result in a serious shortage of land becoming available for rent. It is currently more attractive to let land via a shorter term devices such as a annual grass lets and Short Limited Duration Tenancies. . The threat of the right to buy is not the only reason for SLDTs annual agreements being the letting vehicle of choice. Landowners/farmers also use them because they want flexibility e.g. the land may have longer term development potential, and they want to have the option to farm it in hand.
- The uncertainties surrounding CAP support and the inflated values of annual arrangements further erode long term commitments.
- In terms of a securing the long term future of a new generation of farming businesses this has a huge knock on effect. Farm businesses rely heavily on long term planning, and often these shorter term devices cannot offer enough security and certainty over seeing a return on investment to encourage the new generation of farmers to come through.
- NFU Scotland is also aware that there are huge issues with access to finance for the new entrants. The current fractured state of the economy means that new farm businesses rarely have access to adequate financial support. Banks are reticent to let to established businesses, and even less likely to lend to embryonic businesses without any capital or collateral as a foundation.
- Although some land may become available for rent via short term devices, banks are less willing to lend against these than they would for a long term tenancy.
- The current issue of access to Single Farm Payment for new entrants must be addressed with some urgency as we enter a new CAP regime. Currently tradable entitlements that are not attached to land has resulted in many new entrants coming into farming with no Pillar 1 CAP support, thus placing them at an immediate and considerable disadvantage.

- NFU Scotland considers that thought should be given to providing retirement packages for farmers wishing to leave the industry. This would free up farms for the younger generation wishing to come through, and provide a pathway for new business to thrive. However, in order to achieve this, landlords would require confidence to commit the unit to a new standalone business on a long term basis as part of a package.
- Consideration should also be given to share or partnership farming arrangements, as this would allow for a transfer period between farmers wishing to retire and the new generation coming through. This could also be used to address issues experienced by those farmers without an obvious successor for their business. Share arrangements are an opportunity for those with skills and motivation to develop a capital stake and track record within a business which can open the door to vital credit lines to underpin future business growth.

**Enhance the position of tenant farmers by giving them a right (similar to the rights enjoyed by crofting tenants since 1976) to buy their farms**

- NFU Scotland recognises the diverse and strong representations on this issue, however considers that for the wider benefit of the agricultural industry that an absolute right to buy tenanted agricultural holdings should not be brought into force. NFU Scotland believes that this position reflects the views of the majority of its membership.
- NFU Scotland believes that the introduction of an absolute right to buy would provide a barrier to long term letting devices blocking potential opportunities for new entrants and would thwart effort by existing farm businesses to expand in response to market and economic signals.
- For the purposes of this submission, NFU Scotland has assumed that the statement in the call for evidence relates to tenant farmers with 1991 Act tenancies, and not those under 2003 tenancies.
- As outlined previously in the submission, the ability to rent provides the new entrants without the capital to purchase access to the industry. Routes into agriculture must be kept open by safeguarding the future of secure tenancies. This will not be achieved if a perceived threat of an absolute right to buy hangs over the let land market.
- The sector must operate to the highest possible professional standards on the foundation of sustainable rents. A vibrant tenanted sector must offer a mix of holding opportunities, some open to new businesses and built on long term arrangements to ensure the commitment and investment for the future. Government policy must deliver incentives to support this type of structure.
- Tenants must have security and confidence to make a longer term commitment and investment in an agricultural holding to develop a viable farm business. Landlords must have confidence in their ability to let land in the longer term.

- It is evident that there are issues within the tenanted sector that must be addressed. NFU Scotland recognises these issues, particularly in the context of those who are supportive of an absolute right to buy. For the future of the industry it is imperative that there is a better toolbox that can be utilised to achieve a more harmonious environment for those in such arrangements. A fast track low cost dispute resolution process which is underpinned by a robust practitioners guide is an immediate priority.
- NFU Scotland is supportive of the current arrangement that allows tenant farmers to register a pre-emptive right to buy their holding when the landlord decides to sell, NFU Scotland would support making this an automatic right for all 1991 Act tenancies, rather than the current arrangement which requires registration of interest to activate the right.
- NFU Scotland has put huge effort into identifying constructive approaches to resolving such matters, in the interests of tenants and landlords in order to secure a better future for the Scottish agricultural industry.
- NFU Scotland has done this, in partnership with other bodies, through the vehicle of the Tenant Farming Forum. NFU Scotland is firmly of the opinion that all matters relating to agricultural holdings that might be considered by the LRRG should be handed back to the TFF and be progressed through the consensus that can be built through that forum.
- NFU Scotland is convinced that the future of the agricultural industry is intrinsically linked with the existence of a healthy and vibrant tenanted sector that functions alongside owner occupiers. In a secure environment owner occupied land may move to the tenanted sector where no succession is available.
- Many farm businesses have had to expand in order to remain viable, and many businesses now operate on many different parcels of land which are held under various types of tenure. As a result, Scotland requires access to flexible and fluid arrangements for landlords, tenants, and owner occupiers to take advantage of. It is imperative for the future of the industry that it is allowed to continue to work towards achieving a sector that contributes in a positive way to the economy of rural Scotland .

### **Replace Council Tax and Business Rates with a tax on land values**

- NFUS does not consider that it would be appropriate to impose a tax on land. At a time when Scottish farming faces a very challenging economic position, the notion of taxing an asset, rather than any income that might be earned from that asset, could be catastrophic.
- Land values have continued to rise over recent decades for a variety of reasons and do not adequately reflect the earning capacity of farming enterprises. A farm may have a significant capital value, yet an extremely small percentage tax of that value placed on a vulnerable farm business could be too much to bear.

- The returns on agricultural land are weak and volatile, and it would not be in the best interests of the industry to tax land as an asset. A direct tax on land could result in negative equity, which would have serious consequences for farm businesses affected by it.
- If the implication is that a land tax would apply to let land then this could have unintended damaging consequences for landlord and tenant relations, at a time when the industry is working to salvage this.

### **Change the way in which fresh water resources are owned and managed in order to secure wider community benefit from these resources**

- NFU Scotland considers that as previously stated concerning land ownership, it is imperative to recognise that it is not as important who owns fresh water resources but in fact how they are managed. Scotland has a unique and diverse fresh water resource, which makes a vast contribution to the rural economy. It is vital to protect sporting and business interests of fresh water resources, and care must be taken to ensure that any involvement with the wider community does not have an adverse effect on this.
- Fresh water resources have already been subject to changes due to access legislation, which has already led to an implied wider community benefit. It should also be noted that community access will not depend on who owns land, rather who owns the fishing rights, as in Scotland the rights to fish for salmon and freshwater fish is privately owned and does not always depend on who owns the land.

### **Change the law of succession as it affects land**

- NFU Scotland has considered this both relating to tenancies and owner occupied land. With regards to let agricultural property there is some appetite to examine the parties that can succeed secure agricultural tenancies.
- It is possible to suggest that society has moved on since Succession Law was last substantially amended. Whilst NFU Scotland believes that changes to the Law may be required, it is of vital importance that these are not looked at within the context of the LRRG remit alone.
- NFU Scotland considers that any change to Succession Law which introduces an extension of Legal Rights to heritable assets would result in the fragmentation of farms and cause significant issues with business viability. Such a change would have the potential to break up holdings and render many small farms completely unviable. This would result in a massive negative impact on the rural landscape, agricultural industry, and economy, and further reduce opportunities for a new generation coming into the industry.