



## **Submission to Land Reform Review Group from Scottish Community Alliance - 11/1/13**

### **Introduction**

The Scottish Community Alliance was formally established in July 2011, drawing together a large number of national and regional networks with memberships comprised of community based groups and organisations. While many of these networks have very distinct and separate areas of interest from one another, what binds them together is a firm commitment to the principles of subsidiarity and community empowerment whereby local people can assume much greater influence and control over what happens within their communities. The Alliance's membership touches on many different aspects of community life – housing, health, horticulture, arts, heritage, food, local retail, energy, waste recycling, sport and leisure. For many of these networks, issues that involve land, in terms of who owns it and how it is managed are central concerns. A number of these networks, in particular Development Trust Association Scotland, Community Woodlands Association, Federation of City Farms and Community Gardens and Nourish will be submitting their own detailed responses. This brief response draws on the discussions that have taken place within the Alliance and reflects some broad areas of consensus that exist between its members.

### **Land Reform Act in context**

Central to the Alliance's commitment to advance the cause of community empowerment is the belief that communities must be able to own assets and generate income streams that are independent of their stakeholders and partners in the public and private sectors. To this end, the Alliance has consistently argued that communities require a whole raft of specialised resources and support and in particular this relates to supporting the process of acquiring land and other land based assets. To some extent, the Land Reform Act 2003 has formed part of the necessary legislative and policy framework to deliver this but this Review, and its subsequent recommendations, represents a real opportunity to deliver much more.

### **Constraints on scale of community ownership**

In a relatively short period of time, a sea change has occurred both in terms of public attitudes towards the collective ownership of land and buildings by communities and in the general levels of understanding and awareness of the impact that this can have on a community's long term social, economic and environmental development. This shift has been achieved as a result of a relatively small number of communities, mainly in rural Scotland, that have taken ownership of their land and other related assets and, as a direct consequence, transformed the health, wealth and vibrancy of their communities.

The fact that so many public benefits are now widely acknowledged to accrue when communities take ownership of land might suggest that the number of community acquisitions would have grown incrementally as this body of evidence developed. However this has not happened, and indeed all

momentum that might have existed before now appears to have stalled with the result that the highly centralised pattern of land ownership in Scotland that is so completely out of kilter with the rest of Europe continues to predominate. With so much of Scotland's land owned and controlled by such a tiny proportion of the population, a major impediment stands in the way of the Scottish Government's policy objective to deliver what it has declared should be 'most radical transfer of power since devolution' and will be contained in the forthcoming Community Empowerment and Renewal Bill.

### **Attitudes, beliefs, relationships**

While the causes of Scotland's current pattern of land ownership may be rooted in the mists of time, the prevailing attitudes and belief systems that surround land ownership and land use today are equally outmoded and in need of being challenged. Nourish Scotland, an SCA member and the national network that promotes a fairer and more sustainable food system in Scotland, contends that the idea that landowners should have an exclusive right to use their land as they feel fit, is no longer appropriate and needs replaced with a fundamentally different approach – one which draws on the concept of stewardship. This implies that those who own and manage land in Scotland should only do so on behalf of the Scottish people as a whole, including future generations. This also implies that the focus of attention needs to move from the *rights of landowners* to the *duties of land managers*. It flows from this that if a landowner is found not to be fulfilling their duty of good stewardship, legally enforceable sanctions should exist.

The evidence from the relatively few examples of community land ownership in rural Scotland has been so compelling in its favour that there is now no credible argument to support the continued exclusion of urban communities from having access to the same benefits. While it is true that the specific rights granted to communities under the Land Reform Act have not directly led to a large number of community buy outs, the very existence of these rights has fundamentally changed the policy environment in relation to land and land ownership issues and in particular, the relationship between landowners and communities.

The more detailed submissions from individual Alliance members reflect their particular areas of interest and expertise. The following general points are simply intended both to highlight the broad areas where we believe change and improvement to the current arrangements could and should be made and to reinforce the points contained in the submissions made by others

### **Statement of ambition and the scope of the Act**

If the key issue of Scotland's highly concentrated pattern of land ownership is to be tackled, the revised Land Reform legislation needs to be prefaced by a statement which sets out the full extent of the Scottish Government's ambition and rationale for having such legislation. If the Scottish Government believes that community ownership of land delivers the level of public benefit that Ministers frequently refer to, then there should be an unequivocal statement that the ambition is to deliver a massive increase in the scale of community ownership and ultimately a more equitable pattern of land ownership in this country.

This statement of ambition should also include reference to a shift in emphasis from the rights of land ownership to new (legally enforceable) duties of land management as proposed by Nourish Scotland and their reference to stewardship.

The scope of the Act, in particular the right to buy, should be extended to include all communities and that a principle should be established that it is for local people to determine, backed up by ballot, what the boundaries of their community should be. In addition, the pre-emptive right to buy,

currently only available to crofting communities should be reviewed. Where public benefit can be clearly demonstrated or conversely, where an asset is being clearly mis-managed and significant public disbenefits can be evidenced, some process of mediation or arbitration should be available that facilitates an enforced acquisition by the affected community. (The Community Empowerment and Renewal Bill may include some form of community triggered Compulsory Purchase Order)

### **The operational processes of the Act itself**

The administrative processes of the Act have long been criticised for being overly cumbersome and disproportionately bureaucratic. DTAS's submission has detailed the specific areas that require attention. In particular these highlight issues related to the prescribed legal structures that communities have to comply with, the ballot processes and timescales, the requirement to re-register every five years, definitions of rural, mapping requirements, the lack of flexibility within the framework and in particular the arrangements for late registrations.

### **Resources and availability of national expertise**

Issues of valuation, particularly in relation to public assets are a major barrier to growing the numbers of community land buy outs. Confusion/obfuscation around the interpretation of the rules in the Public Finance Manual must be resolved. If district valuation or market price is the basis for the transactions then there needs to be substantial funding to support the implementation of the legislation. In addition there needs to be a high profile campaign of public awareness raising backed up by easy access to expertise and advice for communities. For years after the land Reform legislation was in place, communities were simply not aware of the full possibilities of the Act and as a consequence relatively few communities availed themselves of the opportunities.

### **Wider issues**

Although out with the competence of the Scottish Government as these matters are reserved to Westminster, some consideration should be given to the tax exemptions and relief which currently incentivise land banking and maintaining empty properties. Similarly of major commercial interest to coastal communities is the ownership of the foreshore and seabed, all of which is managed by the Crown Estate Commissioners based in London and as such is excluded from this debate.