



## Briefing Note

# Land Reform Review – Should Landowners be Alarmed?

The Land Reform Review Group, established by the Scottish Government, issued its call for evidence on 4<sup>th</sup> October 2012. The consultation process is open until 11<sup>th</sup> January 2013. The Group intends to issue its first report “outlining proposals that can be implemented relatively promptly” in May 2013. It then proposes to complete its final report, in draft, in December 2013 and submit a final report to the Scottish Government in April 2014.

The Group has a website, hosted by the Scottish Government, which can be found at <http://www.scotland.gov.uk/About/Review/land-reform>. Details can be found there of the “call for evidence” and how to make a submission to the Group.

The original rationale of the Group was to review the operation of the Land Reform (Scotland) Act 2003, and to make proposals to improve upon it. The Land Reform (Scotland) Act 2003, a controversial piece of legislation as it passed through the Scottish Parliament, but now viewed as largely benign, dealt with three distinct areas:

- It provided a statutory right of responsible access to the countryside
- It introduced a “Community Right to Buy”, which was a pre-emptive right to buy for statutorily defined “Community Bodies”;
- It introduced a “Crofting Community Right to Buy”, which was an absolute right to buy croft land, and non croft land contiguous to it

However, the first indication that the Group would adopt a wider and more expansive review emerged when the Chair (Dr Alison Elliot) and Vice Chair (Professor Jim Hunter) appeared before the Rural Affairs, Climate Change and Environment (RACCE) Committee on 26<sup>th</sup> September 2012. Although there is no indication that the Group is planning a wholesale review of the operation of the Agricultural Holdings Acts, from the responses to the Committee it was clear that the Group considered that its remit extended to the encouragement of new entrants into agriculture and the extension of an absolute right to buy to agricultural tenants.

That it is the intention of the Group to enquire into these two areas becomes more apparent from the terms of the Call for Evidence. The document they have produced includes a list of “potential reforms” to which their “attention has been drawn”. This list is provided “to indicate the potential scope of our enquiries (and to encourage submissions under these and other headings) rather than as pointers to our thinking”. However, that list will act as a red rag to many landowners, containing as it does, several shibboleths which it was previously thought had been slain. That list bears to be repeated here, in full (highlighting added):

- Expand community ownership of land, housing and other assets in both town and country and in all parts of Scotland;
- Diversify and broaden ownership of land in Scotland, where more land is owned by fewer people than anywhere else in Europe;
- Encourage (or oblige legislatively) owners of land to give local communities a greater say in how land is managed and used;
- Make it easier and cheaper for Forestry Commission land and other land in public ownership to be transferred to others;
- Improve the supply and lower the price of land for affordable and other housing in both town and country;
- Help create new pathways, for younger people especially, into farming and crofting;
- Enhance the position of tenant farmers by giving them a right (similar to the right enjoyed by crofting tenants since 1976) to buy their farms;
- Replace Council Tax and Business Rates with a tax on land values;
- Change the way in which fresh water resources are owned and managed in order to secure wider community benefit from these resources;
- Change the law of succession as it affects ownership of land.

The scope of evidence that the Group will consider appears, at this stage, to be largely unrestricted. Those volunteering evidence to the Group are explicitly asked to:

1. “Outline your vision of how things could be different and explain why, in your opinion, they should be different”
2. “Indicate any barriers there may be in the way of attaining your vision”
3. “Suggest how these barriers could be removed and progress facilitated – whether by voluntary, legislative, fiscal or other means”

There are three members of the Group. In addition, a number of advisers have been appointed. The Chair is Dr Alison Elliot, who chaired the Scottish Land Reform Convention from 1998 to 2001 and has an academic background in psychology. Her Vice Chairs are Professor Jim Hunter, the Emeritus Professor of History at the University of the Highlands and Islands, and a published author on community ownership of land, and Dr Sarah Skerrat, the Head of Rural Society Research at Scotland’s Rural University College.

Should, therefore, landowners be alarmed at the scope of enquiry to be carried out by the Land Reform Review Group? The answer is probably in the affirmative.

It is a universal aspiration to encourage new entrants into agriculture. However, in her evidence to the RACCE Committee, the Chair of the Group, stated: "We will look at the issue of new entrants and try to establish how land reform in the widest sense can contribute positively to making the situation a bit easier than it currently is." Landowners will wish to know how wide a sense of land reform will come into consideration.

Any suggestion of the introduction of an absolute right to buy for tenant farmers will reopen all of the wounds, with their accompanying fears and hostilities, which are still borne from the arguments of 1998 to 2003. As a possible indication of the current thinking of the Group, Professor Hunter, in his evidence to the RACCE Committee, opined: "If we go back 100 years, we find that almost all the agricultural land in Scotland was tenanted, but today a considerable proportion of it is owner occupied. Has that change, which usually happened without state intervention, been for the better? Is Orkney a more prosperous place because it has an entirely owner-occupied farming structure, as some would suggest? Is that one reason why it is a relatively prosperous and successful rural community in comparison with other communities where that structure does not prevail? Those questions have perhaps not been as fully explored as they might be, and they could be looked into."

The imposition of a compulsory sharing of land management with communities could not do anything but restrict the freedom of landowners to do with their property as they wish.

Where agricultural land is currently free of Council Tax or Business Rates, the introduction of a tax on land values could not produce any result other than a shift in the burden of taxation in Scotland, and would impact significantly on all rural businesses.

All views should be submitted to the Land Reform Review Group before 11<sup>th</sup> January 2013.

This note is intended as a brief commentary on the call for evidence issued by the Land Reform Review Group. No responsibility can be accepted for any action taken in reliance of this note and specialist advice should be taken in every case. Turcan Connell would be happy to provide such advice.

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