Land Reform (Scotland) Bill 2015
Stage 1 response on behalf of the Community Woodlands Association

The Community Woodlands Association (CWA) welcomes the opportunity to respond to the Rural Affairs, Climate Change and Environment Committee’s call for evidence on the Land Reform (Scotland) Bill 2015.

CWA was established in 2003 as the direct representative body of Scotland’s 200 community woodland groups. We help community woodland groups across the country achieve their aspirations and potential, providing advice, assistance and information, facilitating networking and training, and representing and promoting community woodlands to the wider world.

We very strongly endorse the policy objectives of the Bill, as outlined in the Policy Memorandum: “The Scottish Government believes that on-going, ambitious land reform will help to increase the contribution of Scotland’s land to sustainable economic growth, which is at the heart of the Scottish Government’s purpose. Land reform also has the potential to empower greater numbers of people and, over time, to change patterns of ownership in Scotland to ensure a greater diversity of ownership, greater diversity of investment and greater sustainable development.”

CWA believes the achievement of these objectives will be furthered by a number of the specific proposals contain within the Bill; in particular the requirement to make a (regularly updated) Land Rights and Responsibilities Statement and the establishment of a Land Commission (although we would favour “Land Reform Commission”).

We are concerned however, that in some areas the Bill does not go far enough: measures to increase transparency of ownership are welcome, as are those to re-introduce “sporting rates”, but these must be seen as the first steps on a long journey. In particular we would like to see a firm commitment from the Scottish Government to realign tax and subsidy regimes to support rather than (as at present) inhibit land reform and the furtherance of social justice and sustainable development.

1 Land rights and responsibilities statement.

CWA welcomes a proposal to require a statement of land rights and responsibilities, which we believe should have a clear purpose related to the core objectives of land reform policy.

The Bill could place an obligation on Scottish Ministers to consider the extent to which the Statement will further the achievement of wider public objectives, including (but not exclusively):

- Sustainable development
- Social justice
- Human rights and equalities

Provision for consultation on the statement, and for regular reporting to Parliament, should be included in the Bill.
The Scottish Land Commission.

CWA would favour “Scottish Land Reform Commission”, as proposed in consultation, as we believe this would make explicit that the Commission’s purpose was the reform of the arrangements governing the possession and use of land in the public interest and for the common good.

Provision for consultation on the strategic plan and work programme should be included. The initial period of 6 months to present the strategic plan and work programme may be too short. 1 year may be more appropriate.

The Commission must be able to act independently of existing vested interests, and willing and able to advocate radical change where necessary to achieve its objectives. The membership of the Commission will require a broad base of skills and experience - we would add community development and human rights to the areas of expertise listed – but should not seek to be representative of the status quo: such a Commission would be deadlocked and unable to operate effectively.

The Bill should make explicit that the functions of Land Commissioners include the impact and effectiveness of the lack of any law or policy, as well as extant policy and law.

The functions should also explicitly include the impact of the broad fiscal regime (grants, subsidies, taxes and exemptions) pertaining to land.

Part 3 – Information about the control of land.

Measures to increase transparency of land ownership are welcome, but these appear to have been watered down significantly since consultation. In particular the Keeper’s power to “request” information is weak – “require” would carry greater weight.

It is unclear why some of the measures contained in the previous consultation have been withdrawn (e.g. limiting legal entities that can own land, and providing better Information on land, its value and ownership). In our opinion the proposals as they stand would not make a significant contribution to meeting the policy objectives outlined in the Policy Memorandum.

Accurate and up-to-date information on land ownership and value is critical for developing effective land policy, and the public availability of free-to-use open data about Scotland’s land would inform debate and generate new ideas about land reform. Broader transparency of beneficial land ownership would have significant additional advantages in thwarting money laundering and tax evasion, and in preventing owner’s avoidance of legal responsibility e.g. in cases of wildlife crime.

Engaging communities in decisions relating to land.

We welcome the removal of the previous proposal to place a blanket burden on all charities to engage with communities, regardless of the scale or impact of their operation, however we do not believe the provisions as presented would have any significant positive impact, as it appears that owners (if so minded) would be able meet their obligations simply by engaging with communities, and then ignoring any input.
5 Right to buy land to further sustainable development.

CWA welcomes these proposals, which could be strengthened by:

- modifying the requirement (47(2) (c) (ii)) for the community body to show the transfer of the land is “the only practicable” way to achieve the significant benefit envisaged, to “the most practicable way” – “only” requires a degree of certainty that may not ever be possible.
- modifying the requirement (47(2) (d)) to show that not granting consent to the transfer of land is “likely to result in significant harm to that community” – this seems a very difficult test to meet.
- amending the provision (47(f)(i)) which blocks transfers where the owner is “prevented from selling the land” – this appears to be an invitation to create Trust (or other) structures which prohibit disposal of land.

The Bill could also include powers for Ministers to change by regulations the requirements for information on the location and boundaries of land, and require Ministers to have regard to the International Covenant on Economic, Social and Cultural Rights when considering applications.

6 Entry in valuation roll of shootings and deer forests.

CWA welcomes this proposal as the first step of an extensive process realigning the fiscal regime pertaining to land (i.e. grants, subsidies, taxes and exemptions) to support rather than (as at present) inhibit land reform and the furtherance of social justice and sustainable development.

Community Woodlands Association
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