

The Land Reform Review Group's Recommendations

SUMMARY OF LRRG RECOMMENDATIONS

No	Recommendation	Action being taken
1	The Scottish Government should be doing more to increase the rate of registrations to complete the Land Register, including a Government target date for completion of the Register, a planned programme to register public lands and additional triggers to induce the first registration of other lands	Scottish Ministers have announced that the Keeper of the Registers of Scotland has agreed that the Land Register of Scotland should be complete within 10 years, and all public land being registered within 5 years
2	The Scottish Government should make it incompetent for any legal entity not registered in a member state of the European Union to register title to land in the Land Register of Scotland, to improve traceability and accountability in the public interest	A proposal considering this recommendation is included in this paper as part of the consultation on the proposed in Land Reform Bill.
3	The Scottish Government should, in the interests of social justice, develop proposals in consultation with the Scottish Law Commission for legislation to end the distinction between immoveable and moveable property in Scotland's laws of succession	The Scottish Government is committed to launching a public consultation substantive changes to succession law before the end of this financial year.
4	The Review Group considers that the expansion of land registration is likely to result in surviving examples of common land and commonties coming to light. The Group recommends that these distinctive forms of land tenure should be identified and safeguarded as part of modernising Scotland's system of land ownership	This proposal is still under consideration and a full response will be made in due course.
5	The Scottish Government should take forward the modernisation and reform of Scotland's compulsory purchase legislation, with a clear timetable for introducing a Bill to achieve this into the Scottish Parliament	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of 2015. Consideration will be given to the review of Compulsory Purchase law beign undertaken by the Scottish Law Commission.
6	The SG and local authorities should have a right to register a statutory right of pre-emption over land, where that is in the public interest	This recommendation is under consideration, as part of a workstream responding to 8 recommendations. A report will be made to Minsiters for their further consideration in the course of 2015.
7	The SG, local authorities and other public bodies in Scotland should publish online property registers that are	This proposal is being considered as part of the

	publicly accessible	Community Empowerment Bill.
8	The Crown Estate Commissioner's statutory responsibilities in Scotland, under the Crown Estate Act 1961, should be devolved to the Scottish Parliament	Currently reserved and Scottish Ministers have requested these responsibilities to be devolved to Scotland.
9	The SG reviews the current Crown property rights in Scots law and brings forward proposals for the abolition of these rights or their replacement statutory provisions, as appropriate in the public interest.	Currently reserved and can be considered if devolved to Scotland in the future.
10	The SG should ensure that the two reservations inserted by the Crown Estate Commissioners into the titles to Edinburgh Castle and other former Crown properties now owned by Scottish Ministers are removed	This proposal is still under consideration and a full response will be made.
11	The size and composition of the National Forest Estate should continue to evolve to meet changing circumstances. The SG and FCS should develop a more integrated and ambitious programme of land acquisitions in rural Scotland, as part of delivering multiple public interest policy objectives	This activity is part of normal business, the proposal in this consultation to extend the powers of Forestry Commissioners will make this easier.
12	A new statutory framework should be developed to modernise the arrangements governing Common Good property	The Community Empowerment Bill already provides for improvement to the law on common good property, but further modernisation is proposed for inclusion in Land Reform Bill.
13	There should be an agreed set of criteria which defines an 'appropriate community body', the SG should be flexible in terms of which legal structures are eligible. There should be a clear focus in public policy on supporting appropriate local community bodies that are owned and managed by local communities acting on their own behalves	The Community Empowerment Bill provides for new types of organisations that can be community bodies and so can apply to use the provisions to Scottish Charitable Incorporated Organisations (SCIOs) and allows other types of organisations to be added in the future by way of regulations
14	The SG should set up a short life working group whose task would be to improve information on the numbers and types of community land owners and the land that they own, and to develop a strategy for achieving this target	Yes. This is not legislative and is being progressed. We have developed a series of work streams to meet the target and further consultation and engagement is planned.
15	Trust Ports and other forms of local community control over harbours, piers, slipways and similar coastal assets should be encouraged as a form of community land ownership. The SG should develop specific initiatives to assist this process.	The Scottish Government already encourage this and there is potential to consider this further as we develop the remit of the Short Life Working

		Group on community ownership.
16	The SG, using the evidence and recommendations for change presented in this report, should develop a policy statement, with clear direction to all parts of Government and its agencies, on the objective of diversified land ownership in Scotland, and a strategic framework to promote the continued growth of local community land ownership	Chapter 2 of this consultation contains a draft land rights policy statement for a 21 st century Scotland.
17	Improvements to Part 2 of the Land Reform (Scotland) Act 2003 should include widening its scope to cover urban areas; enabling appropriate community bodies to be constituted as SCIOs; allowing communities to define their area by a boundary on a map; increasing the period of registration to ten years and decreasing the requirements of re-registration; and more generally to make the legislation more straightforward and less onerous for local communities to use	Yes. Most of this is all being addressed as part of streamlining Community Right to Buy as part of the Community Empowerment Bill.
18	The statutory land rights of local communities should include a right to register an interest in land, the existing right of pre-emption over land and a right to buy land, as well as rights to request the purchase of public land and to request Scottish Ministers to implement a Compulsory Purchase Order	This recommendation is under consideration and a full response will be made.
19	Local Authorities should have the right to exercise a Compulsory Sale Order over an area of vacant or derelict land, and also that Community Councils, or appropriate community bodies, should have the right to request a local authority to exercise a Compulsory Sale Order	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of 2015.
20	The SG should ensure that there is an integrated legislative and financial support structure to help local communities in urban and rural Scotland buy and develop land and buildings. An adequate level of funding should be made available to meet an expected increase in demand for local community land ownership	We have already announced that we are committed to extending the Scottish Land Fund until 2020. Ensuring support is well designed and available across the whole of Scotland is being considered as part of the SLWG on the 1 million acre target, so is non-legislative.
21	The SG should publish new Guidance on State Aid to ensure public bodies take a more solution-focused and less risk-averse approach to their interpretation of the Rules. They should also enter into dialogue with the European Commission to improve the scope for public assistance to non-profit distributing appropriate local community bodies	We have revised guidance on the interpretation of State Aid rules.
22	The SG should have a clear policy framework for the disposal of public property to appropriate local	The Scottish Government has reviewed the chapter of the

	community bodies by the Government and associated public bodies, including a more integrated and focused approach to disposals for less than open market value where that is in the public interest	Scottish Public Finance Manual dealing with the disposal of assets and related property guidance. The revised guidance reflects the emerging communities agenda and encourages the appropriate disposal of assets to communities. This guidance ensures that consideration of community bodies form part of balanced value for money considerations to the disposal of public property. Additional guidance in relation to asset transfer requests and disposal at less than market value is being developed to support the proposals in the Community Empowerment (Scotland) Bill.
23	All local authorities should have a 'Community Assets Transfer Scheme' to encourage greater local community land ownership, and that the arrangements in these Schemes should all follow the same consistently high standard of best practice	The Community Empowerment Bill as introduced provides a statutory framework for the transfer to communities of assets belonging to local authorities, the Scottish Ministers and other public bodies
24	The types of support services provided in the Highlands and Islands should be made available to local communities in the rest of Scotland and that the SG should take a more integrated and focused approach to encouraging and supporting the growth of local community land ownership	Consideration is being given to the remit of HIE and SE and how to extend their support services across Scotland, as part of SLWG into 1 million acre target.
25	The SG should establish a Community Land Agency, within Government, with a range of powers, particularly in facilitating negotiation between land owners and communities, to promote, support and deliver a significant increase in local community land ownership in Scotland	Under consideration, does not necessarily require legislation.
26	Local authorities should be given a new power of Compulsory Sale Order	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of 2015.
27	The SG should explore the feasibility of introducing a Majority Land Assembly measure	This recommendation is under consideration, as part of a workstream responding to 9

		recommendations. A report will be made to Ministers for their further consideration in course of 2015.
28	The SG should investigate the potential of introducing an Urban Partnership Zone mechanism in Scotland	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of 2015.
29	The SG should encourage and support a greater emphasis on public interest led development	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of 2015.
30	Encouraging and supporting the development of a vibrant self-build sector should be an explicit aim of a housing strategy in Scotland	Importance highlighted in recent Local Housing Strategy guidance. Scottish Government is exploring possible financial and other support.
31	Establish a Housing Land Corporation, a new national body charged with the acquisition and development of sufficient land to fully achieve these objectives	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of 2015.
32	The Housing Land Corporation should have explicit performance targets that recognise the specific needs of small rural communities and an extended operational role to enable these to be addressed	This recommendation is under consideration, as part of a workstream responding to 9 recommendations. A report will be made to Ministers for their further consideration in course of 2015.
33	The SG should introduce a more comprehensive legal framework for common property, which clarifies and modernises the rights and responsibilities of both the individual ownership and the collective governance of such property	Not at present. However, the Scottish Government is committed to improving guidance on issues such as responsibilities for common property in tenement blocks.
34	The SG should introduce longer and more secure tenancies in the private rented sector	SG is now consulting on a new tenancy regime for the private rented sector, which aims to improve security of tenure whilst proving appropriate safeguards for landlords,

		lenders, and investors.
35	The SG should make rapid progress in implementing the Land Use Strategy across the rest of Scotland beyond the two pilot areas	This question will be dealt with as part of the LUS Review. A refreshed LUS is due to publish in 2016. We have commissioned a full evaluation of the LUS pilots which will be available next year and will inform the LUS review. Non legislative
36	The SG should produce indicative maps of the patterns of land ownership in the Land Use Strategy's current two pilot areas, and in other areas as the implementation of the Strategy develops	No. The two LUS pilots are now well advanced and focus on land use rather than land ownership. There are no plans to implement this recommendation.
37	The SG should ensure that the necessary mechanisms are in place for the successful implementation of the Land Use Strategy in the public interest	Yes. The experience of the two pilot authorities along with the evaluation of the process and a range of other evidence will be used to inform the first review of the LUS which is due in 2016. Non legislative
38	The SG should map and monitor the patterns of land ownership in rural Scotland as part of implementing its Land Use Strategy	No. There are no plans to implement this recommendation in the future, as the LUS focuses on land use rather than ownership.
39	The SG should compile improved information on land ownership and undertake or commission more research into patterns of land ownership	Yes, in process of commissioning first phase of work.
40	The SG should develop proposals to establish such an upper limit on the total amount of land in Scotland that can be held by a private land owner or single beneficial interest, in law	This proposal would require a significant evidence base in order to ensure that it would be compliant with Article 1 Protocol 1 of the European Convention of Human Rights. be ECHR compliant.
41	The SG should develop a National Land Policy for Scotland, taking full account of international experience and best practice	We are consulting on a draft policy statement on land rights and responsibilities for a 21st Century Scotland alongside a the proposed bill.
42	The SG should review this historic <i>universal</i> exemption of agriculture, forestry and other land based businesses from non-domestic rates, with a view to the phased introduction of non-domestic rates for these land based businesses	SG stated last year "all current exemptions would be retained" and in response to LRRG report "there are no plans to make changes to the position of agricultural business rates

		“relief”. Sporting rates being considered as part of Land reform Bill
43	The SG should review the current exemptions from sporting rates and introduce a reformed rates system as appropriate in the public interest	Proposed for inclusion in Land Reform Bill and included in this consultation document at page 13.
44	There should be a detailed study of the scope and practicalities of introducing Land Value Taxation	No work initiated. Potential for this to be within scope of our manifesto commitment to “consult with others to produce a fairer system based on ability to pay to replace the Council Tax”
45	Each of the tax exemptions and reliefs should be reviewed and reformed as necessary, to ensure that there is a clear and transparent public interest justification for the public expenditure through revenue foregone	Inheritance Tax and Capital Gains Tax are reserved to the Westminster Parliament under current constitutional arrangements. If these taxes are devolved to the Scottish Parliament in future, there will be an opportunity to review the operation of these exemptions and reliefs as part of a consultation on the introduction of new Scottish taxes.
46	Changes to the current fiscal regime should include structuring them to encourage an increase in the number of land owners in rural Scotland, in the public interest	The fiscal powers referred to by the Land Reform Review Group are currently reserved to the Westminster Parliament. If these powers are devolved to the Scottish Parliament in future, there will be an opportunity to consider how the fiscal regime could be used in a targeted and effective way to support land reform objectives.
47	Developing a modern and robust statutory framework for crofting should be a priority for the Scottish Government. The crofting community should be at the heart of any such process, and have a clearly defined role within it. Reducing the complexity of crofting legislation should be an underpinning principle of any such process	Whilst consideration of the issues is currently being done as part of the Crofting Sump, making the necessary changes would take longer.
48	The provisions in the Land Reform (Scotland) Act Part 3 impose unnecessary burdens on the crofting community in exercising the right to buy and that the ambiguities in the requirements that they have to fulfil can be exploited in the form of unwarranted challenges to the exercising of the right. The provisions of the Act should be amended to	

	reduce these unnecessary burdens, to reduce the risk of unwarranted challenges and to make other improvements to the provisions	
49	Crofting trusts or crofting community owners should be able to purchase Scottish Government crofting estates at less than open market value. Ministers should direct the SG to make provision for this to happen and to clarify the circumstances under which this can occur. The SG should take a more pro-active approach to facilitating and supporting such transfers	This proposal is still under consideration and a full response will be made after this consultation has been considered and analysed.
50	There should be major improvements in the position of tenants under the Small Landholders (Scotland) Act 1911. These tenants should, like crofters, have a statutory right to buy their holdings.	The Agricultural Holdings Review have been asked to consider this issue. It will be considered further in light of both the LRRG's and AHLRG's final recommendations.
51	The requirement for registration is an unwarranted constraint on the right of pre-emption of secure 1991 tenants under the Agricultural Holdings (Scotland) Act 2003. The legislation should be amended to remove this requirement and to provide that all these tenants have first option on buying any part of their tenanted holding which their landlord decides to sell	This is part of the on-going Agricultural Holdings Review and depending on the Group's final recommendations and subject to further Cabinet consideration this could be taken forward in the Bill as part of a broader package of measures.
52	The position of secure 1991 tenant farmers and their families as part Scotland's rural communities, should be an important consideration in the SG's current review of Scotland's agricultural holdings legislation. The SG should take full account of social and local community factors in determining whether the introduction of a conditional right to buy for tenants with secure tenancies under the Agricultural Holdings (Scotland) Act 1991, would be warranted in the public interest	This Agricultural Holdings Review remit is a vibrant tenanted sector, within this context they have considered the impact of the sector on the local community. The Group are likely to recommend a conditional right to buy where landlord failings are impacting a holding and subject to further Cabinet consideration this could be taken forward in the Bill as part of a broader package of measures.
53	Part 1 of the Land Reform (Scotland) Act 2003 has delivered a progressive statutory framework for improved public access over land in Scotland, and that the main challenges involve continuing improvements in implementation. Scottish Ministers should as part of that, update the Guidance provided to access authorities under Section 27 of the 2003 Act	Yes, we will issue updated guidance.
54	The current common law public rights over the foreshore, inland water and seabed should be replaced by statutory public rights that are integrated with the public's statutory access rights over land under Part 1 of the Land Reform	Not at the present

(Scotland) Act 2003		
55	Following the reform by the Scottish Parliament of the arrangements governing the management and use of Scotland's fresh water resources, the riparian rights still attributed to adjacent and surrounding land owners in Scots property law should be reviewed and reformed to reflect the public interest in these resources as now defined	Not at the present
56	The current system of District Salmon Fishing Boards based on property rights is no longer appropriate or adequate as part of the statutory arrangements governing freshwater fishing and fisheries. These should be abolished as part of putting in place a new improved statutory framework to ensure the sustainable management of Scotland's wild freshwater fish populations in the public interest	Similar recommendations were contained in the Wild Fisheries Review Report and will be considered in that context.
57	The presumptive Crown property right in Scotland to salmon fishings should be abolished or at least not exercised by the Crown Estate Commissioners until it can be. The coastal and freshwater salmon fishings held as ancient possessions by the Crown should be conveyed by the Crown Estate Commissioners to Scottish Ministers	This would be a matter for the CEC and Westminster.
58	The capacity in Scots law to create new ownerships of salmon fishing rights separate from the land over which the rights exist, should be ended	Not at present.
59	The SG should develop a clear policy framework and associated arrangements to deliver improved opportunities for members of the public to fish for wild freshwater fish in Scotland	Similar recommendations were contained in the Wild Fisheries Review Report and will be considered in that context.
60	Improvements should be made to the current statutory framework governing the hunting of deer in Scotland to ensure appropriate culls are carried out to adequately safeguard public interests	Proposed for inclusion in Land Reform Bill and included in this consultation document at page 1.
61	The SG should have an integrated programme of land reform measures to take forward the changes required to modernise and reform Scotland's system of land ownership	This proposal is still under consideration and a full response will be made after this consultation has been considered and analysed.
62	There is a need for a single body with responsibility for understanding and monitoring the system governing the ownership and management of Scotland's land, and recommending changes in the public interest. The SG should establish a Scottish Land and Property Commission	Proposed for inclusion in Land Reform Bill and included in this consultation document at page 12.