

## **Annex A – What the Scottish Government is already doing for land reform**

### ***IMPROVING TRANSPARENCY AND ACCOUNTABILITY***

#### **A. Completion of the Land Register.**

A key part of ensuring that land rights are clearly defined and transparent, is ensuring we have a comprehensive understanding of land ownership in Scotland. In Scotland we have the world's oldest, still running, property register – the Register of Sasines – dating from 1617 and which is a register in which property deeds are lodged and from which ownership of land has to be deduced from an examination of those deeds; that can make the task of establishing who owns land complex and costly.

We also have one of the most recent land registration systems in the world as the Land Register started in Renfrew in 1981 and then spread over the rest of Scotland with the final areas covered in 2003. From its inception up until December 2014 properties generally only came on to the Land Register following a sale of the property. It has always been possible for owners to voluntarily register in the Land Register.

The Land Register provides a map based legally definitive register of title setting out who owns a particular property and showing the boundaries of that property on the Land Register map. To date some 58% of properties in Scotland are on the Land Register, though because the bulk of those properties are urban dwellings only around 26% of Scotland's land mass is registered.

Land Registration law has recently undergone significant review and reform with the result that a new legislative framework, as set out in the Land Registration etc (Scotland) Act 2012 that will be introduced on 8<sup>th</sup> December 2014. One of the principal aims behind that Act is to enable completion of the Land Register. Scottish Ministers are committed to completing the Land Register and have invited the Keeper of the Registers of Scotland to do so within ten years. To emphasise their support to this exercise Scottish Ministers have committed to the registration of all public land within 5 years. The Keeper recently launched a public consultation on the use of the powers within the 2012 Act to achieve completion within the 10 year timeframe. The consultation closed on 4 November 2014 and the responses are currently being analysed.

Further information on completion of the Land Register is available from Charles Keegan, Head of Land Register Completion at Registers of Scotland.

## **ACHIEVING BETTER OUTCOMES FROM LAND**

### **B. New and improved community rights to buy.**

The Land Reform (Scotland) Act 2003 (“the 2003 Act”) has been in force for a decade and it has enabled many rural communities in Scotland to reap the benefits of taking ownership of land that they can then manage in the interests of the community. Whilst the experience of the last ten years has been positive, there are some changes to the right to buy provisions in Part 2 and 3 of the 2003 Act that the Scottish Government wishes to make through the Community Empowerment (Scotland) Bill that is currently being considered by the Scottish Parliament.

One of the key constraints of the 2003 Act is that the Community Right to Buy is only available to rural communities, so the Community Empowerment (Scotland) Bill extends the Community Right to Buy to urban communities and also proposes new provisions that will enable communities to apply to buy neglected or abandoned land.

The Bill also gives communities wishing to exercise their community right to buy greater flexibility by providing that Scottish Charitable Incorporated Organisations (SCIOs) as well as companies limited by guarantee can be community bodies and by allowing communities to define their “community” area in more ways than simply by referring to postcode.

It is also intended to bring forward amendments to the Bill to make a number of changes to the crofting community right to buy under the 2003 Act in order to address concerns made by Crofting Communities.

### **C. Extending the Scottish Land Fund until 2020.**

The Scottish Land Fund, a manifesto commitment, supports the community ownership of land in rural Scotland. It supports rural communities to become more resilient and sustainable through the ownership and management of land and land assets (land assets are resources that are associated with the land such as mineral or riparian rights, energy opportunities, standing timber and buildings).

In 2012-16 the Land Fund is being administered by the BIG Lottery Fund in partnership with Highlands and Islands Enterprise. The Fund provides grants of between £10,000 to £750,000 to support projects from a range of community organisations in rural areas of Scotland (settlement areas of less than 10,000 head of population). Capital and revenue costs are eligible, though £50,000 is only available to support revenue costs.

The Land Fund, originally a £6M, three year commitment (£1M in 2012-13; £2M in 2013-14 and £3M in 2014-15), was extended, by an announcement of the First Minister on 7 June 2013, for a further year to cover the period 2015-16. This commitment has been further extended by the Minister for Environment and Climate Change on 7 June 2014 to cover the period 2016-20.

All projects must meet the outcome that their rural community achieves increased sustainable economic, social and environmental development through the experience of acquiring, owning and managing land and land assets. In addition they must also meet one of the following outcomes:

- Rural communities are more empowered and have a greater capacity to lead and control their own development so that they can generate sustainable income;
- People in rural communities have increased opportunities to participate effectively in community-led development, including volunteering;
- Rural communities are more resilient through the development and provision of community-led essential local services.

A number of awards have been made by the Scottish Land Fund. In 2012-13 a total of 4 awards were made (the Fund opened for business in the first week of July 2012); in 2013-14 a total of 15, and in 2014-15 some eight to date.

Some of the awards are set out below:

- A grant to **Mull of Galloway Trust** totalling **£338,500** for the purchase of land and buildings at the Mull of Galloway lighthouse (excluding the lighthouse tower and some ancillary buildings). (Year 2 – 2013-14)
- A grant to **Castle Loch Lochmaben Community Trust SCIO** of **£198,500** (£148,500 capital and £50,000 revenue) for the purchase and development of the Castle Loch (178 acres), Lochfield Cottage and an area of meadow, wetland and woodland (69 acres) situated on the periphery of the town of Lochmaben, Dumfries and Galloway. Community ownership of the loch will secure the site for the benefit of present and future generations, create new volunteering and recreational opportunities, contribute to the local economy by improving access and increasing visitor numbers, and ensure community control and management of the future development of this environmentally important asset. (Year 2 – 2013-14)
- A grant of **£60,330** for **North Harris Trust**, for the legal fees associated with the transfer which will include the mapping and registration of the boundaries of the estate, and a contribution to the salary costs of a new Development Officer. (Year 2 – 2013-14)
- A grant of **£141,760** for **Mull and Iona Community Trust**, in partnership with Ulva School Community Association, to purchase an area of land at Ulva Ferry, on the Isle of Mull. The group have been exploring ideas for development with new affordable housing identified as a local priority. (Year 2 – 2013-14)
- A grant of **£103,390** to **Kinghorn Community Land Association**, Fife, to purchase three plots of land at Kinghorn Loch, Kinghorn, to be developed as a multi faith community woodland burial site and community orchard. (Year 2 – 2013-14)
- A grant of **£54,901** for **The Ecology Centre**, Kinghorn, Fife, to purchase a plot of land at Kinghorn Loch, Kinghorn to build a new purpose-built centre which will safeguard local jobs. (Year 2 – 2013-14)
- A grant of **£230,000** for **The Pairc Trust** towards the acquisition of the Pairc Estate, Isle of Lewis. (Year 2 – 2013-14)

- A grant of **£50,000** to **South Islay Development** to purchase a local petrol station in Port Ellen, on the Isle of Islay, Argyll to ensure the future of this essential rural business. (Year 2 – 2013-14)
- A grant of **£99,437** to **Johnstonebridge Community Development Company** to purchase 4 plots of land for allotments and affordable housing. (Year 2 – 2014)
- A grant of **£207,500** (£157,500 capital funding and £50,000 revenue funding) to **Carloway Estate Trust (Urras Oighreachd Charlabhagh)** for the purchase of Carloway Estate on Lewis. The asking price is £180,000 for the 4,654 hectares/11,491 acres of estate. (Year 3 - 2014-15)
- A grant of **£750,000** to **South Cowal Community Development Company** to assist it to purchase Castle Toward Estate, Argyll & Bute, and develop it for leisure, tourism and amenity uses. (Year 3 - 2014-15)

The current administrative arrangements for the Land Fund programme run until March 2016. The Land Fund will be refreshed for a further four years.

For information on the Scottish Land Fund contact [enquiries@biglotteryfund.org.uk](mailto:enquiries@biglotteryfund.org.uk) 0300 123 7110 <http://www.biglotteryfund.org.uk/scottishlandfund>

#### **D. A strategy to achieve 1 million acres in community ownership by 2020.**

We recognise the importance of community land ownership in driving the prosperity of Scotland. In recent years the range of property owned by communities and the types of communities owning land has widened. This reflects a drive by the people of Scotland to positively influence their individual and collective well-being through developing strong, resilient and supportive communities.

Community land ownership spans a wide range of policy areas and we have already begun on-going discussions both across the Scottish Government and with external stakeholders to develop a clear vision, set of aims and outcomes for the 1 million acre target.

We have started to develop a series of work streams to achieve the 1 million acre target. We are currently planning further consultation and engagement with a view to developing these work streams with stakeholders to improve existing information on community land ownership and to produce a strategy and action plan for community ownership from 2015 to 2020.

## **ADDRESSING SPECIFIC ASPECTS OF LAND OWNERSHIP AND RIGHTS**

### **E. Housing and Planning response to recommendations**

The report recommendations that related directly to land assembly for housing and regeneration are being considered by Scottish Ministers within the context of the existing Scottish Planning System, which operates in the long term public interest in the use of land and future development.

The 9 recommendations concerned are:

- to extend the Right to Pre-emption so that local authorities have the right to register a statutory right to pre-emption over land, where it is in the public interest;
- introduce a new Compulsory Sale Order power;
- Local Authorities should have the right to exercise a Compulsory Sale Order over an area of vacant or derelict land;
- modernise the Compulsory Purchase Order process;
- introduce a Majority Land Assembly measure to support urban renewal;
- set up a National Housing Land Corporation charged with the acquisition and development of land and;
- for this body to have an extended role in small rural communities;
- introduce Urban Partnership Zones; and
- The SG should encourage and support a greater emphasis on public interest led development.

Issues being addressed include the current and potential effectiveness of existing powers, measures and structures. Interactions with the Scottish Law Commission review of compulsory purchase and land compensation, issues highlighted in the RICS Housing Commission report in July 2014 and comments made during the Scottish Government Housing Event in November, will all be taken into account. There is likely to be further public consultation before significant action or legislation is progressed.

### **F. Wild Fisheries**

The Scottish Government announced an independent review of the management of wild fisheries in January 2014, chaired by Andrew Thin. The driver for the review was the Government's manifesto commitment to protect and enhance Scotland's wild fisheries and modernise the management structures. The review was the

second stage of delivering the manifesto commitment (the first stage was Part 2 of the Aquaculture and Fisheries (Scotland) Act 2013).

The review's aims were:

- To develop and promote a modern, evidence-based management system for wild fisheries fit for purpose in the 21<sup>st</sup> century, and capable of responding to the changing environment; and
- To manage, conserve and develop our wild fisheries to maximise the sustainable benefit of Scotland's wild fish resources to the country as a whole and particularly to rural areas.

The review commenced in March 2014 and reported in October 2014: the report is available at: <http://www.scotland.gov.uk/Topics/marine/Salmon-Trout-Coarse/fishreview>. The review's report is wide ranging and, in line with its remit, focuses on what a modern, evidence-based management system should look like. The LRRG published its report while the review was underway, making a small number of recommendations relevant to wild fisheries management.

The panel gave these careful consideration and, where appropriate, they have been taken into account when framing the recommendations of the wild fisheries review. A number of themes from the land reform agenda are picked up in the report, including recognition of the public value of Scotland's wild fisheries and the need for the management system to serve and include a wider constituency than present.

Ministers have welcomed publication of the wild fisheries review report and committed to consider it in depth and consult on a new management system. It is anticipated that a consultation on policy options will take place in Spring 2015 followed by consultation on a draft wild fisheries Bill in Winter 2015/16.

## **G. Succession**

The Review Group highlighted a number of concerns over the current distinction in succession law between moveable and heritable property. The removal of the distinction was fundamental to the recommendations set out in the Scottish Law Commission's 2009 Report on Succession, to ensure a just distribution of assets among a deceased's close family to reflect both societal change and expectations.

As part of the broader suite of measures to address land reform, there is also clear intention to bring forward a separate Bill on technical aspects of succession law, subject to satisfactory consultation responses, in this term of Parliament, to be followed, subject to the incoming administration's view, by a Bill on substantive changes to modernise succession law.

The consultation on the technical succession Bill closed on 7 November 2014 and a consultation on the substantive changes to succession law will be issued before the end of this financial year.

As part of this modernising of succession law, the distinction between movable and immovable property would be removed.

