Finance Committee

Report on the Land Reform (Scotland) Bill’s Financial Memorandum, 2015 (Session 4)
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1. The remit of the Finance Committee is to consider and report on-
   a. any report or other document laid before the Parliament by members of the Scottish Government containing proposals for, or budgets of, public expenditure or proposals for the making of a tax-varying resolution, taking into account any report or recommendations concerning such documents made to them by any other committee with power to consider such documents or any part of them;
   b. any report made by a committee setting out proposals concerning public expenditure;
   c. Budget Bills; and
   d. any other matter relating to or affecting the expenditure of the Scottish Administration or other expenditure payable out of the Scottish Consolidated Fund.

2. The Committee may also consider and, where it sees fit, report to the Parliament on the timetable for the Stages of Budget Bills and on the handling of financial business.

3. In these Rules, “public expenditure” means expenditure of the Scottish Administration, other expenditure payable out of the Scottish Consolidated Fund and any other expenditure met out of taxes, charges and other public revenue.
Introduction

1. The Land Reform (Scotland) Bill (the Bill) was introduced by Richard Lochhead MSP, Cabinet Secretary for Rural Affairs, Food and Environment on 22 June 2015. The Committee issued a call for evidence on the Financial Memorandum and received twelve responses.

2. The Committee took evidence from the Scottish Government Bill Team (the Bill Team) at its meeting on 23 September 2015.

The Financial Memorandum

3. The Bill is set out in 10 parts as follows—
   - Part 1: Land Rights and Responsibilities Statement
   - Part 2: The Scottish Land Commission
   - Part 3: Information about control of land etc.
   - Part 4: Engaging communities in decisions relating to land
   - Part 5: Right to Buy Land to Further Sustainable Development
   - Part 6: Entry into the valuation roll of shootings and deer forests
   - Part 7: Common good land
   - Part 8: Deer
   - Part 9: Access rights
   - Part 10: Agricultural Holdings.

4. The table on pages 74-77 of the FM set out the anticipated financial implications of the Bill.

5. The main concerns raised in the oral and written evidence are considered below.

Compliance with Standing Orders

6. Rule 9.3.2 of Standing Orders specifies that Bills shall be accompanied by a Financial Memorandum which sets out the best estimates of the administrative, compliance and other costs to which the provisions of the Bill would give rise, best estimates of the timescales over which such costs would be expected to arise, and an indication of the margins of uncertainty in such estimates.

7. The Committee is concerned that many of the costs identified in the FM, particularly those falling on other bodies, individuals or businesses are not accompanied by estimated figures. The reason given for this, both in the FM and from the Bill Team in oral evidence, is that the associated costs are unquantifiable. In some instances the FM states that there are costs but they are not expected to be major costs or will vary from case to case and again no actual or estimated figures have been provided.
8. In the oral evidence session with the Bill Team the Committee asked if best estimate figures could be provided in relation to the areas where costs have been identified. The Committee also requested it be provided with a table of costs presented in a way that makes it easy to read across the three categories where costs are likely to fall.

9. The Committee notes the revised table of costs submitted by the Bill Team but is disappointed that best estimate figures have still not been included.

The Committee recommends that best estimate figures for costs, particularly those falling on other bodies, individuals or businesses, be provided before the Parliament is asked to vote on the Bill at Stage 1.

Issues arising from Oral and Written Evidence

Access Rights

10. Part 9 of the Bill is concerned with access rights and core paths plans, it brings forward amendments to the Land Reform (Scotland) Act 2003 to clarify and simplify the core path planning process and amend notification procedures for applications to the sheriff court to determine the existence and extent of access rights to allow for notification of all relevant parties interested in exercising access rights. The FM does not envisage additional costs on the Scottish Administration or other bodies, individuals and businesses. It states that local authorities “may experience increased costs when undertaking additional consultation, but these costs are marginal.”

11. Several local authorities raised concerns over this statement. North Ayrshire Council commented that this could vary depending on how definitions are applied—

“An example of this is with access and core paths which places a responsibility on local authorities to make reasonable enquiries into land ownership where ownership information is not readily available. Enquiries into land ownership can be expensive and the cost implications of this part of the Bill will be dependent on what Ministers define as reasonable.”

12. South Lanarkshire Council also disagreed with the FM in this respect adding—

“Until detailed guidance is provided regarding the extent of actions that authorities will be expected to take to identify owner / occupiers, it is not
possible to ascertain the level of potential additional consultation costs. There is concern that the increase could be significant."

13. This was also reflected by Glasgow City Council in its submission—

   “The Financial Memorandum states the likelihood of minimal costs to local authorities; however at this stage any direct costs are effectively unknown.”

14. The Committee sought clarity on the level of analysis, if any, that had been made of the impact of this part of the Bill on individual local authorities. The Bill Team stated that this part of the Bill addresses what happens when a local authority carries out a review of its core path plan and decides to add a new core path. The Bill Team added that it had not identified maximum or minimum costs to local authorities as the number who may wish to add to their core path plans is unknown.

15. When pressed further the Bill Team confirmed it understood that it would cost approximately £20 for a local authority to carry out a search for a landowner and that if the search failed then the Bill allows for a notice to be posted on the land.

16. In its submission COSLA stated that further detail is required in order to more thoroughly assess the financial implications of the proposal on local authorities as these are currently unquantifiable. In contrast Stirling Council’s view is that the increased enquiries associated with the implementation of the Bill should easily be subsumed into current service provision.

   The Committee is of the view that in order to comply with Standing Orders the best estimate figures setting out the possible costs to a local authority to add a new core path to its core path plan should have been provided.

Right of access to information on persons in control of land and proprietors of land

17. The FM states that there are no costs to local authorities in relation to the right to access information. This is disputed by Moray Council in its submission –

   “We have several thousand separate property interests and dealing with requests may take up some time. Est £2500 per annum.”

18. Moray Council believes that the costs for local authorities in responding to requests for information from the request authority in relation to the property interests they hold have not been considered in the FM.
The lead committee may wish to explore further the extent of costs which local authorities may face in relation to Part 3 of the Bill.

Entry into the valuation roll of shootings and deer forests

19. The FM provides an estimate of £4 million annual liability for having shoots and deer forests added to the valuation roll which is based on government receipts of £2 million from 1994. The Scottish Gamekeepers Association believes this is not a robust enough calculation methodology given what is at stake. Its submission states—

“Income from country sports in Scotland has dropped £40 million (from £240 to £200 million) between one Public and Corporate Economic Consultants (PACEC) report in 2006 and the latest in 2014. Using this as a guide it is clear challenges have increased rather than decreased within the industry”

20. In responding to criticism of the methodology used to estimate the valuation the Bill Team explained that in the absence of a valuation of the tax base it was felt the methodology used provided the best estimate possible. To provide a more detailed estimate would require assessors to identify potentially thousands of entries, agree a valuation methodology and then value each one. In doing this the independence of the assessor could be compromised with the additional complication that should any valuation for the purposes of the FM be lower than the formal valuation then it could be sited in an appeal hearing.

21. The Bill Team confirmed it was aware that some stakeholders had called for better, more robust figures and that it would be willing to look at any other proposals brought forward by stakeholders to help provide estimates but it was currently not aware that any alternatives had been suggested.

Economic impact

22. The British Association for Shooting and Conservation (BASC) believe that in addition to the financial implications its members in Scotland will face there are also unintended consequences. In its submission these are listed as possible job losses if shoots close due to employers struggling; damage to rural communities which are already considered Less Favoured Areas due to social and economic vulnerability and loss of tourism harming the shooting related and supply chain businesses.

23. The Committee asked if the Bill Team had access to the PACEC reports into Scottish country sports tourism, referred to in BASCs written evidence, which suggested 88% of shooting and stalking businesses either broke even or ran at a
loss. The Bill Team confirmed it was aware of the reports published by PACEC. The Bill Team stated the reports had been taken into account but they believed they can only help so far in helping to understand and judge the effects that a rating liability would have on the sector.

24. However the Committee was disappointed that the Bill Team was unable to provide further information specifically on how the PACEC reports had been taken into account and whether or not any policy changes had occurred on the receipt of the reports.

The lead committee may wish to give further consideration to the economic impact of entry into the valuation roll of shootings and deer forests on local communities.

25. BASC have also raised a concern regarding a contradiction between the description of Part 6: Entry in valuation roll of shootings and deer forests on page 73 and paragraph 103 of the FM. The first states—

"Application of non-domestic rates to shootings and deer forests - to remove the exemption from business rates for shootings and deer forests, in order to help fund local services and to place shooting and deerstalking businesses on a level playing field with other rate paying businesses."

26. While paragraph 103 also in relation to Part 6 of the FM states—

"The additional receipts from ratepayers will accrue to local authorities, and as such will be accounted for as receipts to the Scottish Consolidated Fund. The effect will be a corresponding reduction to the general revenue grant as part of these local authorities’ finance settlement from the Scottish Government, thus enabling equivalent funding to be directed elsewhere within the Scottish Government’s budget."

27. The Committee queried this with the Bill Team who clarified in writing on 2 October 2015 that:

"Rates revenue is effectively retained by the council that collects it, to help fund local services – having been pooled via the Scottish Consolidated Fund, and then returned to the Council. Rates revenue is no longer redistributed between councils, as was the case prior to April 2011.

Role of the land commissioners and tenant farm commissioner

28. The FM states that the salary costs for the Land Commissioners and the Tenant Farmer Commissioner are based on the assumption that they will be required to work for approximately two days per month. The Scottish Council for Voluntary Organisations (SCVO) raised a concern that this may not be sufficient for them to
carry out their duties and that consequently the figures may be an underestimate of what is actually required.

The lead committee may wish to explore the costs associated with the Land Commissioners and the Tenant Farmer Commissioner in further detail to ensure they are sufficient for them to carry out duties required under the Bill.

Public Sector completion of the Land Register

29. The Committee is aware that often legislation may form a part of a wider policy initiative and as such it also seeks the views of stakeholders on whether any associated wider costs have been reflected in the FM.

30. In its written evidence COSLA raised a concern around the costs associated with the Ministerial Commitment in relation to the completion of the Land Register. COSLA estimate that completion of the register may cost local authorities a total in excess of £150 million. While the Bill contains no provisions in relation to the completion of the Land Register the Bill Team confirmed that its completion is part of the wider land reform programme and undertook to provide the Committee with additional information in writing.

31. In its letter of 2 October 2015 the Bill Team confirmed that Scottish Ministers and the Registers of Scotland (ROS) are in contact with COSLA in relation to the commitment to complete the Land Register for the public sector by 2019. ROS has offered to meet with COSLA to discuss how registration of local authority land might best be taken forward in the most cost effective way for all. In addition ROS is providing on-going support in assisting public sector land owners to register their land and there is a 25% reduced registration fee in place for voluntary registration.

The lead committee may wish to consider the costs faced by the public sector in relation to completing the Land Register under the Scottish Government's land reform programme.

Conclusion

The lead committee is invited to consider this report as part of its scrutiny of the Bill
Finance Committee
Report on the Land Reform (Scotland) Bill’s Financial Memorandum, 2015 (Session 4), 2015 (Session 4)

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1 FM can be found at page 71 of the Explanatory Notes available at:
http://www.scottish.parliament.uk/S4_Bills/Land%20Reform%20(Scotland)%20Bill/b76s4-introd-en.pdf

2 Scottish Parliament Finance Committee Official Report 23 September 2015. Available at: