We are pleased that the Government has recognised that the existing legislative framework for allotments is complex, and consultation has shown strong agreement that it needs to be updated. We welcome the statutory protection of allotments in the Bill. However we are concerned that the Bill repeals the existing legislation and in doing so some of the protections for plot-holder and allotment sites contained in the provisions of the old legislation appear to have been lost. There is no duty on the local authority to provide suitable land from their existing stock or by lease or purchase. Without such a duty the aim of the Bill to strategically support allotments and community growing spaces cannot be fulfilled.

We hope that the following amendments to strengthen the current legislation will be accepted by the Local Government and Regeneration Committee. The detail in this document is from a working group of twelve members of SAGS who have discussed and researched it over the summer. Our response has been shared with the wider membership of the organisation which covers every region in Scotland. We are all volunteers and have no legal or legislative expertise so we hope the Committee will take this into account when considering our requests.

Q4: are you content with the specific provisions in the bill, if not what changes would you like to see, to which part of the bill and why?

4.1 Plot size

Amendment 68 (d) replace 'of such a size as may be prescribed' with 'normally of size 250 sq m. which may be subdivided into half or quarter plots with agreement of the members of the local association'.

Rationale

1. The power to define a standard size has been delegated to the Scottish Ministers under Sections 202-204 of the Delegated Powers Memorandum. The reason given for delegating this power to secondary legislation is to enable existing variability of size to continue because the variability "reflects the individual tenants needs and abilities to maintain and grow on an area". This infers that the decision was taken in the interests of plotholders' needs. We are concerned that unless a standard size of 250 sq m is stipulated within the Bill, plot-holders will not be able to acquire sufficient area of allotment to fulfill their needs. There is also a concern that the reason for taking power, as described in Section 203, may be untenable in light of UK Parliamentary precedents set under scrutiny of the Delegated Powers Regulatory Reform Committee (DPRRC)

2. SAGS and its membership have consistently called for a 250sq.m plot size throughout this consultation process. This currently accepted size is based on the research contained in Finding Scotland’s Allotments and is an average of the current plots found across Scotland.

Any sub division of this size can be accommodated, after consultation at the local association level and with the plot-holder depending on need, demand or expertise. This would ensure that the local community of plot-holders would have the power to determine flexibility of plot sizes.

The proposed description in Section 68 (d) "of such size as may be prescribed" is not sufficient to secure an area that allows for the horticultural and environmental sustainability of plots to be maintained. A standard plot of 250 sq m. would enable families and individuals to grow sufficient, nutrient dense, fresh foods to feed themselves throughout most of the growing year. This is especially important in areas of multiple deprivation.

3. The recommendation from the Grow Your Own Working Group (GYOWG) Report 2011 that fed into the 2011 SNP Manifesto was to facilitate:
“an amendment to the Allotments Act that specifies a time-scale for allotment provision and number of allotments per head of population”

SAGS welcome the acknowledgement of GYOWG, set up by the Scottish Government and that its recommendations initiated that the allotment provisions in the Bill. However key recommendations made by the GYOWG are absent from the proposed legislation. It is estimated that at present there are about 8,000 allotment plots in Scotland which, assuming that an average of about 1.5 people cultivate each plot, means that only 1 person in 500 has access to an allotment plot. To put this into perspective, (assuming a mixture of standard size plots of 250 sq m and some smaller half and quarter plots) then all the land that is needed to offer 1 plot for every 100 people is only equivalent to the area of Holyrood Park or about 8 golf courses. (The figure of 1 plot for every 100 people is an estimate of potential need based on the current provision of plots across the UK and in Europe.)

4. The current proposal, in focusing only on waiting lists and not on the provision of land may result in the subdivision of current plots to satisfy the numbers on the waiting list. We are concerned that a small fraction of a plot will be offered as the norm by the local authorities. All those who wish should be able to access a full size plot for sustainable horticulture, food sufficiency and well-being.

5. The information contained in our answer to Question 2 shows that if the predicted need for allotments is satisfied with standard plots available for all who require them then allotment sites will contribute significantly to many priorities of the Government and local authorities including climate change and carbon reduction, health and well-being and food production.

4.2 Section 72 'Duty to provide allotments'
We are concerned the 'Duty to provide allotments' in this section rests on the proviso that each local authority must take 'reasonable steps' to ensure the waiting lists do not exceed a certain value. The following amendments to section 72 would clarify the 'reasonable steps' that a local authority should take.

4.2.1 Statutory duty to provide suitable land
Amendment Section 72 (1) Where subsection (2) or (3) applies then the local authority will by purchase, lease, or transfer make any suitable local land available for the purpose of allotments. This should take no more than 3 years as applicable in subsections (2) and (3).

Rationale
1. There is no provision for the local authority to acquire land. There is a duty to reduce the waiting lists 72 (1) and a duty to identify land 77 (3) (a), but there is no duty to provide land that is identified in section 77 (3). The provision or acquisition of land is at the very core of the previous legislation. The loss of these duties of land provision and other powers is a major loss from all the previous legislation and creates a significant barrier to the establishment and sustainability of local allotment communities.

2. The issues of access to land are core to the historical aspects of inequality in Scotland. Land held in Scottish Government departments or in Strategic Land Banks by Local Authorities, or vacant and derelict land, need to be transferred out in a form of social contract not an economic contract to communities. This will entail the creation of a new type of community vehicle of provision; one that does not take on the burdens associated with vacant and derelict land, but has powers of rebuilding brownfield neighbourhoods through an integrative public health and planning approach, which will be essential for improving the odds for sustainable redevelopment and securing long-term gains in public health.

3. Access to land to cultivate, care for, and grow food is a social justice issue. The neighbourhood statistics for Glasgow in 2007, where people often live in tenements or high rise flats showed that in some places only 6 per cent of the population had access to a garden and that 84 per cent were without a car. In 2009 the Scottish Allotments and Gardens Society (SAGS) and Scottish Natural Heritage (SNH) analysed access to allotments in Scotland against the Scottish Index of Multiple Deprivation. This confirmed that with fewer plots accessible per person there is less opportunity to garden in deprived areas. Since other statistics show that up to 70 per cent of the population enjoy and benefit from gardening this is clearly a social justice issue. It also means the priority must be to provide allotments in some of the most deprived areas of the country.
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Data
1. Allotments (Scotland) Act 1892 Section 2: If the Local Authority is of the opinion that there is a demand for allotments in their area they have a duty, subject to the provisions in the Act, to acquire and let suitable land for allotments.

2. Allotments (Scotland) Act 1922 section 6 (2) Where land is acquired by a Local Authority for use as allotments under an order for the compulsory leasing of the land, the lease must be for over 10 and no more than 35 years.

4.2.2 Duty to provide suitable land and infrastructure

Amendment Add to 72: In consultation with the local group, the local authority has a duty to provide land that is ‘fit for purpose’ including initial reports, remediation, infrastructure and special provisions together with access to the allotments by suitable roads or paths, where such means of access are not already available.

Rationale
1. Costs that may be incurred before ground is deemed fit for purpose including soil tests, wildlife / ecology surveys, planning applications, building warrants etc. These are generally out-with the capacity of local groups. Funding may not be available until planning permission, which includes these reports are in place.

2. Land should be 'fit for purpose'. From July 2001, all Local Authorities were required to have a Contaminated Land Inspection Strategy in place. This ensures that formal notice of any contaminated sites is given and appropriate person(s) with responsibility for any remediation are identified. Allotment Associations should not be responsible for any remediation nor liable for any effects from contamination on the site.

3. The design and layout of the site which might include infra-structure such as fences (or hedges), water and drainage; provision for those with physical disabilities, mental impairment, the elderly or community groups should be agreed in consultation with the local group of potential plot-holders. Partnership funding could be acquired but it should be the duty of the local authority to lead on this and ensure the site fulfils the needs of the local community. Local groups are usually not cognisant with the difficulties and issues that may arise.

Data
1. Allotments (Scotland) Act 1892 Section 5: The Local Authority may improve and maintain any land acquired by them under this Act, and adapt the same for letting in allotments, by draining, fencing, making roads, and otherwise, as they think fit, to maintain the allotments in a proper condition.

2. Allotments (Scotland) Act 1922 Section 15 The Local Authority has a duty to provide access to allotments by suitable roads or paths, where such means of access are not already available.

4.2.3 Triggers –

Amendment Add to 72: Local authorities have a duty to provide land for allotments so that no-one on the lists waits more than 3 years for a plot.

Rationale
At present: 72 (1) Where subsection (2) or (3) applies, each local authority must take reasonable steps to ensure that the number of persons entered in the list maintained under section 71(1) is no more than one half of the total number of allotments owned and leased by the authority.

At present on established sites there is a turnover of about 5% of plots each year. This means that if the local authority only has to ensure the list is less than 50% of available plots, people could still wait 10 years for a plot.

The historic and current lack of appropriate provision of land is the key factor in the length of waiting lists and lack of allotment gardens and sites.
4.3 Consultation: 
**Amendment 79 (1)** As soon as is reasonably practical after the end of each reporting year, each local authority must in consultation with the organisation representing allotment associations in their areas, publish an annual allotment report for its area.

**Rationale**
1. In Edinburgh, Glasgow and Dundee allotment associations come together as federations or forums. These bodies support the allotments officer, enable good practice to be disseminated and allow issues to be discussed.
For community empowerment, local groups should be involved with all the strategies, reports and evaluations. Direct involvement would ensure continuing interest and support for the local authority.

4.4 Governance

**Amendment: Add 81 Delegation of management of allotment sites:** The Scottish Ministers will appoint an Ombudsman to adjudicate in any causes of conflict between the parties involved (local authorities, allotment associations, individual plot-holders).

**Rationale**
1. As with other small organisations, allotments can be the site of conflict however community mediation provision across Scotland is not readily available to allotments. There is no ombudsman or regulator for disputes in sites that are not directly managed by the local authority.
To ensure that participative democracy and self management results in empowerment for all and to minimise cases of discrimination within the community, a system of controls and checks and balances needs to be developed to ensure that everyone is able to participate and any dysfunctional cliques or conflicts are minimized. Most public bodies, services and sectors have some forms of quality control or regulation and systems for appeal and conflict resolution, for example a local authority ombudsman. However there is very little detail in the Bill about how small-empowered organizations and communities will be regulated.

**Data:** Conflict is not often brought to the public domain so instances are anecdotal, reported in newspapers or captured on television series and films. However it is acknowledged that conflict is endemic in small community projects.

4.5 Recognising the needs of those with mental impairment or the elderly:

**Amendment 70 (3)** Where the person making the request is a person who has a physical or mental impairment, the request...

**Rationale**
1. Mentally impaired individuals and those with unseen difficulties may also require adjustments to their allotment sites and plots in the same way that individuals with a physical impairment do. Other people, such as the elderly, might also require adjustments, for example, those with Alzheimer’s are known to benefit from specialised sensory sites.

**Q1:** to what extent do you consider the bill will empower communities, please give reasons for your answer?
Any legislation which increases and supports allotment provision will empower the community and create the locus for new communities. “An allotment isn’t just a place to grow spuds. In each and every plot in this country you will find a wide range of people with a breadth of knowledge and experience in many areas, from the unemployed, the disabled, doctors, lawyers, engineers, environmental enthusiasts and kids who want to grow the biggest beanstalk in the world. There are few places where such a diverse mix of the population regularly get together and share information, advice and a cup of tea on an equal footing with each other because at the end of the day everyone is equal in wellies and an old torn jumper” 

Raising
The reasons for the creation of the first Allotments Bill in 1892 are still present; the original wording of the ‘labouring classes’ encompasses the terms the poor, the working poor, the disadvantaged in use today. Legislation clarifying and updating the Allotments Acts together with the Explanatory notes, Policy Memorandum and Delegation of Power shows support for allotment provision. There is a proven need for more allotments in areas of deprivation; allotments provide community spaces where individuals can access cost-effective food sources by growing their own, as well as keeping active during the winter months so reducing their food and fuel bills. This legislation should provide the means for communities to work with the local authorities to rebuild brownfield neighborhoods, design sustainable redevelopments and secure long-term gains in public health.

1.1 Gains from the previous legislation:
(i) The disposal of sites will be the responsibility of Ministers whereas previously it was only considered to be a local matter. This recognises the significance of allotments to the national agenda.
(ii) The Bill contains an increased recognition of issues facing plot-holders together with containing the mechanism for more co-operation and collaboration between the Scottish Government, local authorities and plot-holders.
(iii) There will be an increased transparency and recognition of need through the duty on local authorities to keep records and report to communities through the Allotments Report. If these together with the amendments suggested in answer to Q4 are en-acted, the new legislation should decrease the frustration over lack of sites and long waiting times.
(iv) The power for training, promotion and support will help to make allotment sites productive and accessible for all.
(v) Equality of provision through recognising the needs of those with physical impairment - which we hope will be extended to the needs of those with mental impairment and the elderly.

1.2 We trust that:
(i) sufficient suitable land will be made available for all who wish an allotment plot to have one.
(ii) the Food Strategy will lead to the promotion of allotments and a long term strategy with an assessment of need.
(iii) precious land, particularly in urban areas that is suitable for cultivation will be conserved.

1.3 We have concerns about
(i) how land will be acquired and the right to a standard plot if required. (see Amendment 4.1)
(ii) how are voices heard – Allotments and allotment communities have the capacity to meet many of the national outcomes but the process for these communities to participate, articulate and demonstrate this is unclear when the onus is on the CPP to decide which bodies they consult and engage with. (Policy Memorandum (Pages 34 – 43)).
There are potential competitive tensions between some official partners within the CPP and some community bodies, particularly over land. The fact that one interest is elevated to official partner within the CPP imputes against the empowerment of some small communities. There is a need to ensure participative democracy does not become eroded. Therefore a stronger mechanism for statutory engagement of small communities is required. (See Bill section 4 (5)).
(iii) long term leases and permanent allotment sites - the current support for stalled spaces with very short term leases could mitigate against the need for permanent sites to justify the long term commitment plot-holders have to improving the soil and nurturing the environment.
(iv) asset transfer – problems with conflict (see Amendment on Governance in 4.4 in answer to Q4)
(v) the level of powers delegated to Ministers particularly in regard to the meaning of ‘allotment’ – see response to Q4 and amendment suggested in 4.1.

Q2: What will be the benefits and disadvantages for public sector organisations as a consequence of the provisions in the bill?

2.1 Government agenda
(i) Climate change and carbon mitigation
• The CO₂ emissions of a Scottish plot-holder are 10% lower than the UK per capita average.

Increasing allotment provision to eliminate the known waiting lists would reduce CO₂ emissions by a further 5,700 tonnes per year.
Increasing allotment provision to the SAGS target of 1 plot per 100 people, would give a total CO₂ emissions saving of 45,000 tonnes per year.

(ii) Soil conservation:
Currently there is concern about the deterioration in quality of the soil across the U.K. Research has shown that 'Urban cultivation in allotments maintains soil qualities adversely affected by conventional agriculture'.
Many plot-holders have expertise in composting and in the virtuous cycle of cultivation.

(iii) Health and well-being:
It is known that gardening and allotment gardening specifically contributes significantly to physical, mental and overall health and well-being across generations and those with an allotment have better health than those without.

• Gardening greatly improves the health and well-being of older gardeners. Currently we have an ageing population and therefore any activity that improves the health of older people will in due course lessen the demand on health organisations.

• Gardeners have better balance, health and fewer falls than non gardeners demonstrating that allotments improve health and lessen the burden on public sector health organisations.

• Empowering small communities such as allotments may compensate for the loss of neighborhood in some areas, particularly socio-economically disadvantaged areas and areas where spatial organization of buildings do not promote neighborhood and social relations.

(iv) Food production:  250m² will feed a family of four “five a day” for almost the whole year.
Good horticultural practice includes crop rotation, space for fruits and trees, composting and recycling, water management, boundary maintenance, soil care, peer education etc. All of which enables families and individuals to grow sufficient, nutrient dense, fresh foods throughout most of the growing year.

(v) Social enterprise: clear channels are emerging between stalled spaces that can introduce people to cultivation, through allotment plots which enable them to develop their skills and interest and some are then moving into social enterprises such as market gardens and community development projects. e.g. Nairn Academy has areas for the local students on the Rural Skills module.

(vi) Equality - average size of an existing allotment in Scotland today is 244m². A standard plot size of 250m² should be available for everyone who wishes and can cultivate it regardless of area in which they live.

2.2 Local Authority agenda
(i) Allotments can contribute to the SOA e.g Edinburgh uses them in the outcome that Edinburgh’s natural and built environment is supported and enhanced.

2.3 Financial cost
(i) Savings to local authorities through devolved management of allotments, in particular by the contribution from plot-holders through taking over collection missives, responsibility for maintenance sites etc. For example in Glasgow it costs £15 per plot to send out and process the missives. The cost to the Council is about £14K. On devolved site management this would be about £400. There is of course a reciprocal cost from the plot-holders involved who take over this task.

(ii) Partnerships with local groups to acquire funding and develop sites. Implementing a stalled space can be extremely expensive whereas allotment sites that are larger and more sustainable in the longer term can be developed or far less money.
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(iii) The amount of land we need in order to enable 1 in 100 is about 1000ha which even if it was all acquired at current agricultural price of land (<£4K per acre) would be less than £10M.

(iv) The estimated cost in the Explanatory notes to the Council ranges from £1900 to £6250 per plot. This does not take into account the contribution plot-holders can make especially if they are involved from the start with site design and lay-out. They can also access external sources of funding. We suggest that a reasonable figure is between £750 and £2000 per plot. However this will depend on the land being suitable and ‘fit for purpose’, as highlighted in Q4.3. The surveys etc can cost as much as £9K.

(v) Cost of producing reports is between £500 and £1K. If allotment associations were involved in this the cost would be reduced.

Q3: Do you consider communities across Scotland have the capabilities to take advantage of the provisions in the bill? If not, what requires to be done to the bill, or to assist communities, to ensure this happens?

3.1 Sites are sustainable – The allotments at Cowlairs Works were founded in 1842 covered about 3.5 acres, remained for more than a hundred and thirty years. New Victoria Gardens in Glasgow was created around 1875 and is still in existence as are other sites across Scotland, created during WW1 and so almost 100 years old.

With support from local Councils or Development Trusts, many communities have organised new allotment sites across Scotland.

3.2 We need

(i) capacity building within communities is required to realize the provisions and the spirit of the CEB. Resources must be set-aside for this. Allotment communities consist of members of other communities in their area and can therefore reflect the social and economic disadvantage of the communities from which they draw. Many allotment communities will therefore be constrained from their entitlement to be empowered by a lack of capacity building.

There should be a duty for local authorities to build capacity by providing information and expertise to communities who request this. Knowledge and expertise is developed within local authorities and other public bodies: a mechanism to transfer this capacity more directly to empowered communities needs to be developed to avoid this being lost. Some allotment communities are dealing with complex issues that require expertise across several functional areas, for example in planning, land, leases, conflict resolution and environmental health issues. Much of this is currently embodied within councils and public services and a means of transferring this should be developed.

(ii) local authorities to work on a collaborative and participative basis with local groups in setting up allotment sites. An example of good practice is found in Fife where the Council has almost doubled the allotment provision in the last five years.

(iii) a new legal entity for allotments and other small community organisations. Empowerment brings responsibilities however without appropriate protections the default position may be small community organizations managed by office bearers who are either subject to unfair personal risks or a lack of participation for fear of personal liability. Even SCIOS are burdensome for small volunteer groups without time or experience to administer them. An alternative perhaps following the tradition of Mutuals (which several allotment associations were in the past) could be developed in consultation with Scottish Government and COSLA to cover the legal concerns regarding un-incorporated organisations and Governance of sites (see Amendment 4.5)

(iv) good practice guidance such as the SAGS Sustainable Allotment Site Design Guide and the New Plot-holders Guide to be promulgated through the Councils to all sites. The horticultural expertise already existing in sites should be recognised and disseminated among local associations. A mentoring scheme such as that originally set up by ARI (Allotments Regeneration Initiative) which no longer runs in Scotland would be most useful.

(v) support from local authorities for networking between local allotment associations but also with other associations and organisations such as housing, health etc to learn from each other
(vi) encouragement for participative democracy perhaps with funding for schemes such as ‘art of hosting’

(vii) implementation of the Scottish Community Development Centre’s suggestion that a community engagement plan, as well as an officer to ensure engagement is facilitated, and provided for within the CEB.

Q5: what are your views on the assessment of equal rights, impacts on island communities and sustainable development as set out in the policy memorandum?

Local Authorities must make regulations about site management justified in public interest in making land available for community growing including allotments. Fair balance between public interest & tenants rights.

We are content that the Local Authorities make regulations about allotments although we wonder if it is necessary to specify these in so much detail. We strongly recommend that a duty is imposed on the local authority to consult relevant bodies when developing regulations. The knowledge and expertise that the allotment community has in terms of governance and disputes is an invaluable resource.
Annex: Further reading in support of arguments, a selection of the sources used for this submission:

1. Background papers:
   (x) Consultation on Community Empowerment (Scotland) Bill: Analysis of Responses 9.11 http://www.scotland.gov.uk/Publications/2014/06/3535/9
   (xii) Raising spirits – allotments, community and well-being by Jenny Mollison, Judy Wilkinson, Rona Wilkinson Argyll Publishing 2014

2. Carbon emissions:
   (iii) Climate Challenge Fund data www.scotland.gov.uk/Publications/2011/06/28142748/4

3. Soil:
   (i) The State of Scotland’s Soil, Natural Scotland, 2011 (www.sepa.org.uk/land/idoc.ashx?docid=f200543f-cb74-426f...1)
   (iii) www.telegraph.co.uk/gardening/howtogrow/10792603/Soil-report-shows-we-should-all-grow-more-of-our-own.html

4. Health and well-being:
   (i) Horrocks, C and Johnson, S Advances in Health Psychology Palgrave Macmillan 2012
   (ii) Middling, S; Bailey, J; Maslin-Prothero, S; Scharf, T, 2011 http://ro.ecu.edu.au/ecuworks2011/542/Gardening and the social engagement of older people
   (iii) Van den Berg, A; Custers, M 2011 Journal of Health Psychology http://hpq.sagepub.com Gardening Promotes Neuroendocrine and Affective Restoration from Stress

5. Fairness, health equity and equality:
   (i) http://www.instituteofhealthequity.org/projects/fair-society-healthy-lives-the-marmot-review
   (iv) Derelict Land, Deprivation, and Health Inequality in Glasgow, Scotland: The Collapse of Place http://www.gsa.ac.uk/media/530191/180113_the_collapse_of_place_maantay_2013_final.pdf

The background papers with more references from the SAGS team that informed this report will be found on the SAGS website www.sags.org.uk