COMMUNITY EMPOWERMENT (SCOTLAND) BILL

1. This is the response from Scottish Natural Heritage (SNH) to the call for evidence from the Local Government and Regeneration Committee as part of the Stage 1 consideration of the Community Empowerment (Scotland) Bill.

2. We have been pleased to contribute to the development of this legislation, through our response to the consultation on the draft Bill which concluded on 24th January 2014, and on the earlier exploratory consultation which closed on 26 September 2012.

Q1. To what extent do you consider the Bill will empower communities, please give reasons for your answer?

3. We welcome the Bill, which reflects and builds on the Christie Commission agenda. The Bill sets out approaches to community involvement in service delivery, land ownership and asset management. We believe that the combination of a strengthened framework for community planning, a wider right to buy, increased co-production of services and a stronger focus on outcomes should all help to empower communities.

4. While this legislation should do much to empower communities, a key need is for these communities to have the skills and capacity to engage fully in the opportunities that the legislation should help provide. SNH believes that the current capacity of community groups in relation to environmental issues varies considerably and that many communities and groups (including Community Councils) will need further support and capacity-building in order to take up these opportunities. In recent years, our Sharing Good Practice programme and Learning Through Doing project have helped some community groups to develop more skills and capacity. Developing these sorts of approaches should help, and we would be ready to support such work in the environment field.

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

5. We comment here on the individual Parts in the Bill.

Part 2 Community Planning

6. We support efforts to strengthen and extend community planning, including the widening of the membership of Community Planning Partnerships to include SNH and the other bodies listed in Schedule 1. Requiring the bodies listed to engage where there is a need for them to do so is more likely to bring about the joint working that is required to help areas that have multiple disadvantages and to improve places for people.

7. SNH believes that whilst we are well-engaged with some CPPs we have struggled to become involved with others, particularly in the Central Belt. Schedule 1 begins to illustrate the range of partners and expertise required to help deliver shared
outcomes, and this may help to switch the emphasis from some organisations ‘pushing’ to get involved in relevant CPPs to seeing a ‘pull’ from Partnerships and communities for their input.

8. To be consistent, Historic Scotland could be added to the list of community planning partners in Schedule 1 (they acquire NDPB status with the creation of Historic Environment Scotland in 2015).

9. We welcome the clarification of the roles and responsibilities of community planning partners, particularly around governance.

10. The Bill introduces a requirement for community planning partners to produce a local outcome improvement plan. Given that the Policy Memorandum states that the recently completed Single Outcome Agreements are the equivalent of Local Outcome Improvement Plans, it might be helpful to use one term or the other. This should help to avoid any confusion when the legislation is implemented.

Part 3 Participation requests

11. Co-production is a major theme of the Christie Commission recommendations on the future delivery of public services in Scotland. Together with SEPA, we have been exploring the implications of this for our work and for the environmental sector in general, as set out in the published report on social productivity carried out for us by the Royal Society of Arts. From this it is clear that co-production requires significant changes in the way that the public sector works, and the Bill provides for many of these. We are also working with the Scottish Leaders Forum through their Skilled Workers Skilled Citizens initiative to build capacity in SNH for this approach.

12. The Bill requires that a Participation Request be accompanied by a simple statement of benefits, basically “an explanation of the improvement in the specified outcome”. The Bill also states that the public body receiving the request must evaluate it against a list of factors (Section 19 (3)). For the avoidance of doubt, it would be helpful if the legislation was clear on whether all of these factors need to be considered in every case, or only those that are appropriate.

Part 4 Community Right to Buy Land

13. Paragraph 73 of the Consultation on the Community Empowerment (Scotland) Bill, 2013 stated that “Land which is intended for recognised conservation purposes would not be considered to be neglected or abandoned.” This does not seem to be reflected in Section 48 of the Bill.

14. In our response to the consultation, we commented that the term neglected or abandoned land should be defined so as to exclude land that is delivering wider public goods in the form of ecosystem services despite it not being “actively” managed. The absence of active management is not necessarily a sign of “abandonment” or “neglect”. For example, areas of peatland might be helping to deliver carbon capture, which is part of the Scottish Government’s response to climate change. Owning and managing land for nature conservation is an
important land use. We would welcome the legislation reflecting the statement made in the consultation on the draft Bill.

15. The identification of community assets could be done through collaborative ‘co-production’ approaches involving local communities.

Part 5 Asset Transfer Requests

16. SNH has been involved in the transfer of local assets to the community on Rum. It is possible that community bodies may apply to organisations like SNH for funding and advice in support of managing natural assets that are transferred. This may have resource implications but this is very dependent on each case and so it is difficult to estimate generally.

17. Details of what is to be included in an asset transfer request are expected to be set out in (forthcoming) Regulations. We would hope that these include the need to demonstrate that any transfer would be financially sustainable in the long term, providing confidence that the proposed benefits can realistically be achieved.

18. It might be helpful to consider whether the requirements under Part 5 could be aligned with those under Part 4, so that a community body would need to set out a “plan for the land” to help show how the transfer of that land would be “in the public interest and compatible with furthering the achievement of sustainable development in relation to the land”. This would build on what we believe has been productive experience for all parties in negotiating purchase of community woodlands and other land assets under the Community Right to Buy.

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?

19. Please see our response to Q1 above.

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?

20. We have no comment on this question.

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?

21. We have no comment on this question.