Written Submission from the SCVO

Summary

- SCVO welcomes the Scottish Government’s commitment to land reform and increased community ownership of land
- Land reform policy must link with the Fairer Scotland initiative and ensure land is incorporated into the strategy for tackling inequality
- The new approach to community engagement outlined in the Bill is a considerably more proportionate response than that proposed in consultation
- A rewording of two of the key tests for the Community Right to Buy would improve the balance of rights in favour of communities
- Ministers should be required to have regard to the International Covenant on Economic, Social and Cultural Rights when considering any Community Right to Buy application

Introduction

SCVO welcomes the Scottish Government’s commitment to land reform and increased community ownership of land. It is encouraging to see the Policy Objectives of the Bill referencing empowering people and increased public benefit as key goals of the Bill.

The references to social justice in the Policy Objectives are also welcome and reflect well the view set out by Minister Aileen Macleod in her speech to the Community Land Scotland Conference: ‘Access to ownership and use of land is not evenly spread across society and there’s good evidence that this inequality does not serve us well.’ However, as yet it is unclear how this Bill along with other policy will address this inequality and create a more equitable pattern of land ownership. We would like to see the Committee explore this issue further.

The issue of land reform and social justice must also be incorporated into the Fairer Scotland initiative and ensure land is part of the strategy for tackling inequality when developed. As has been raised on many occasions, land reform is an ongoing process and must also become incorporated into other policy initiatives if momentum is to be maintained.

As housing is one on the key forms of land use in Scotland as well as an important factor in addressing inequality, it is important that the Scottish Government clearly articulates how land reform will help improve housing inequality.

As we outlined in our response to the Scottish Government consultation we are supportive of the introduction of a Land Rights and Responsibilities statement and the creation of a Land Reform Commission. We also supported the proposals to coordinate more information on who owns land and to limit the legal entities that can own land. Therefore it is disappointing that the proposals on obtaining more
information on ownership have been watered down through deferment to regulations.

We would like to make more detailed comments on two areas of the bill:

**Part 4 - Engaging Communities in decisions related to land**

We welcome the changes made to this section following consultation. The approach outlined in the Bill is a considerably more proportionate response than was initially proposed in consultation. The acknowledgements in the Policy Memorandum that charities are not required to manage land in a way which takes into account local communities is helpful.

The vast majority of charities are already engaging well with communities and are responsive to their needs. However, for many land owning charities engaging with their community may not be appropriate or possible.

Using the powers of the Office of the Scottish Charity Regulator (OSCR) to ensure charity trustees are paying appropriate regard to the guidance issued by Ministers and acting within their duties under the Charities and Trustees Investment (Scotland) Act 2005 is an approach we support.

We recognise the genuine concerns that a small number of individuals may be misusing charitable status through family trusts to avoid tax. We would like to see OSCR using its regulatory powers to investigate the governance and financial arrangements of these bodies to ensure they are complying with charity law and delivering public benefit. The new guidance should aid OSCR in those investigations and ensure charities are meeting their obligations.

**Part 5 – Right to Buy Land to Further Sustainable Development**

While the policy objectives of this part of the Bill are welcome the way that legislation has been drafted could mean that these powers will be at best of very limited use to communities and at worst entirely ineffective.

We support the principle that the Right to Buy powers should be a mechanism of last resort and welcome the inclusion in the Bill of powers for Ministers to facilitate mediation between landowners and communities. Discussions and mediation must always be the first step before resorting to the legislative approach.

However, the four tests in the Bill which communities must pass to utilise the Right to Buy powers must be set at a level that gives communities a reasonable opportunity to meet those provisions. A rewording of two of the key tests would improve the balance of rights while still providing more than adequate protection for landowners.

Our main concern is the third test which states that:

‘The transfer of land is likely to result in significant benefit to the community; and is the only practicable way of achieving that significant benefit’
It is our view that the second part of this test and the use of the word ‘only’ would be impossible for the community to prove and that this should be replaced with a less stringent test.

The fourth test also represents a high hurdle for communities to achieve:

‘Not granting consent to the transfer of land would result in significant harm to the community.’

Again, this would be very difficult for the community to prove, even in exceptional circumstances.

**Third Party Ownership**

The introduction of third party ownership is a positive step. Allowing communities to nominate a third party such as a housing association to take on the Right to Buy will develop positive relationships and allow communities to take on projects with the support of a more established body.

**Human Rights**

It would be beneficial if Ministers were required to have regard to the International Covenant on Economic, Social and Cultural Rights when considering any application. This is already required for Community Right to Buy applications in the Land Reform Act (as amended by the Community Empowerment Act 2015).

**Conclusion**

SCVO is generally supportive of the approach taken by the Scottish Government to land reform. The new approach to community engagement in the Bill is a considerably more proportionate response than that outlined in consultation. A rewording of two of the key tests for the new Community Right to Buy would improve the balance of rights while still providing more than adequate protection for landowners. We would like to see the committee explore further how the Bill will address inequality and create a more equitable pattern of land ownership.
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About us
The Scottish Council for Voluntary Organisations (SCVO) is the national body representing the third sector. There are over 45,000 voluntary organisations in Scotland involving around 138,000 paid staff and approximately 1.3 million volunteers. The sector manages an income of £4.9 billion.

SCVO works in partnership with the third sector in Scotland to advance our shared values and interests. We have over 1,600 members who range from individuals and grassroots groups, to Scotland-wide organisations and intermediary bodies.

As the only inclusive representative umbrella organisation for the sector SCVO:

- has the largest Scotland-wide membership from the sector – our 1,600 members include charities, community groups, social enterprises and voluntary organisations of all shapes and sizes
- our governance and membership structures are democratic and accountable - with an elected board and policy committee from the sector, we are managed by the sector, for the sector
- brings together organisations and networks connecting across the whole of Scotland

SCVO works to support people to take voluntary action to help themselves and others, and to bring about social change.

Further details about SCVO can be found at www.scvo.org.uk.

http://www.scottish.parliament.uk/S4_Bills/Land%20Reform%20(Scotland)%20Bill/b76s4-introd-pm.pdf