Written Submission form the Scottish Community Alliance

Introduction

The Scottish Community Alliance (SCA) is a coalition of national networks with community based memberships. A number of these have specialist knowledge and interest in different aspects of land reform, namely Community Land Scotland, Community Woodlands Association, Development Trusts Association Scotland, Scottish Allotments and Gardens Society. We anticipate their evidence will address specific aspects of the Bill, reflecting their particular areas of interest and therefore SCA’s submission will concern itself primarily with the general principles contained in the Bill.

SCA welcomes the renewed emphasis that the Scottish Government is now giving to land reform and in particular the recognition that Scotland’s land is a key national resource which should be managed, used and owned in order to deliver greater public benefit.

Land reform concerns all of Scotland

Historically, land reform has been perceived as having relevance only in the remote rural parts of Scotland. But as the Land Reform Review Group identified, land reform involves a broad and complex range of legal and policy matters, and covers not just all land in Scotland, urban and rural, but also our coastal and marine environment. SCA welcomes the acknowledgement of the Scottish Government that the fundamental relationship between the people of Scotland and all of its land needs to be strengthened as a result of this Bill.

Towards a Land Policy for Scotland

Prior to the work of the LRRG, there was a widely held perception that Scottish Government’s commitment towards land reform that was in evidence at the time of the Land Reform Act 2003 had all but stalled. For this reason, SCA supports the proposal to produce a Statement of Land Rights and Responsibilities. It will be important that such a Statement is refreshed regularly and within it makes the policy connection to other policy objectives such as social justice, housing and tackling climate change that this Bill seeks to achieve. In addition it seems logical that the existing work on the refreshed Land Use Strategy should be conflated with this Statement so that a unified set of national policy statements can be established in relation to how land is owned, managed and used – in effect moving towards a Land Policy for Scotland.

Land Reform is a long term national project

SCA also welcomes the recognition by the Scottish Government that land reform is a long term process and that this Bill is just but one of many staging posts along the way towards a system of land use and ownership that delivers, directly and indirectly, a whole range of public benefits, greater social justice, fairness and equality.
Framing land reform within a human right agenda

During the earlier consultation there was a significant call from various quarters for the land reform agenda to be framed within a wider human rights agenda, and in particular to have regard for the International Covenant on Economic, Social and Cultural Rights. SCA would support this argument because it places land reform within a wider context of social change and human rights, thus making it more transparently connected to key policy matters such as the basic right to warm and affordable housing, healthy food and self-determination.

Scottish Land Commission

For the same reasons as outlined above in relation to the Statement of Land Rights and Responsibilities, SCA also welcomes the proposal to establish a Scottish Land Commission. This will not only ensure that the momentum for this programme of work is maintained but also provide a degree of independence from Scottish Government Ministers for the work and future direction of this programme. The Commission would in effect be the land reform watchdog and as such the appointment of the Commissioners, how their selection is conducted and the balance of interests represented, will be crucial.

Engaging Communities in decisions about land

In principle this is to be welcomed but the extent to which this will have any positive impact on the ground will come down to the quality of guidance provided to land owners and the extent to which this community engagement function monitored. For many years the community sector has suffered from an approach to community engagement which is often both tokenistic and mechanistic, resulting in communities simply being told what is about to happen whether they like it or not.

The Right to Buy Land To Further Sustainable Development

SCA is broadly in favour of these proposals but has some concerns about certain aspects which unless addressed may render them unworkable in practice. In principle however this is a very positive addition to the options available to communities in circumstances where they consider their interests are being seriously compromised by the actions of a landowner. At present, unless the owner puts the land on the market the practical value of the right to buy is extremely limited. Other than the existing powers of compulsory purchase held by public bodies, communities are left with no alternative but to suffer in silence. This new right at least offers the prospect of some remedy.

However, because of the way in which this new right to buy is currently framed, it may not achieve the intended outcomes. The requirement to show that not granting consent to the transfer of land is likely to result in significant harm to that community will be problematic in terms of how the threshold of eligible harm is defined. Also, the requirement for the community body to show the transfer of the land is “the only practicable” way to achieve the significant benefit that is sought is likely for the same reasons to fall foul of close inspection. Only implies there is no other route and therefore one can envisage the counter-arguments that such a phrase will create.
Conclusion

SCA is broadly supportive of the general principles of the Bill. Some of the lessons learnt during the passage of the Community Empowerment Act in term of the need for clarity of the language and the policy intent that lie behind different parts of the Bill should help to deliver a Bill that can contribute to the much needed democratisation of Scotland’s land. SCA, and in particular its key member networks, are keen to work with the RACCE Committee and Scottish Government to develop the thinking and ideas submitted here and in previous consultations.