Written submission from Chartered Institute of Housing

1. General Comments

1.1 We welcome the opportunity to submit our views on the Land Reform (Scotland) Bill. As a representative of the housing sector in Scotland, we will be focussing specifically on the aspects of the Bill which relate to the development of housing and sustainable communities.

1.2 There is a significant shortage of homes being built in Scotland compounding issues of affordability, homelessness and overcrowding. Over 28,000 households were assessed as homeless last year and the numbers recorded as living in temporary accommodation have remained over 10,000 since 2009\(^1\). It is estimated that an average of almost 18,000 new households will form in Scotland every year until 2022\(^2\). The number of new homes completed fell below 20,000 in 2009/10 and last year just 14,899 were completed\(^3\). It is clear that significant reform is required to support the development of new homes for our growing population.

1.3 In general, we support the provisions within the Bill and acknowledge the Scottish Government’s intention to rebalance the ownership of land in Scotland by empowering communities to become more involved in decisions regarding land in the local area and encouraging community ownership to further sustainable development. We see the Land Reform (Scotland) Bill as a step towards a more balanced system but feel that more work needs to be done to ensure a sufficient supply of good quality homes that meet people’s needs and contribute to the creation of sustainable communities.

2. Land Rights and Responsibilities Statement

2.1 We support the development of a Land Rights and Responsibilities Statement setting out the Scottish Government’s approach towards creating a fairer balance of land ownership in the interest of the people of Scotland. The draft Statement included in the Scottish Government consultation constitutes a good starting point but we would like to see a reference to the relationship between land and housing development included. We understand that it is the intention of the Scottish Ministers to consult on the content of the statement before publishing it and when carrying out reviews. However, we would prefer if a duty to consult was included in the Bill.

2.2 We welcome the fact that the statement will be reviewed every five years, as many stated in response to the land reform consultation, this is an ongoing process and regular review will allow current approaches to be evaluated and adapted as necessary.

---

\(^1\) Table 1, Applications by financial year, table 35, households in temporary accommodation [http://www.gov.scot/Topics/Statistics/Browse/Housing-Regeneration/RefTables/annualreferencetables201415](http://www.gov.scot/Topics/Statistics/Browse/Housing-Regeneration/RefTables/annualreferencetables201415)


3. Scottish Land Commission

3.1 The establishment of an independent Commission will help to ensure that the issue of land remains a constant consideration, that the changing needs of communities, landowners and tenants are taken into account and acted upon.

3.2 Issues relating to land are complex and wide ranging and we welcome that this is reflected in section 9 requiring Scottish Ministers to ensure a mix of expertise is present in the commission. It is not clear however, why all of the people listed at section 10(1) would be disqualified from membership for 12 months after leaving their previous post. We understand the intention to ensure the Commission is independent of Government influence but feel that if the person in question has valuable experience that could serve the Commission well, it does not make sense to exclude them from the process. Perhaps there could be a requirement to declare a previous appointment which could be taken into consideration by Ministers.

4. Transparency of Landownership

4.1 We support greater transparency of information on landownership which has the potential to simplify the process for the development of housing in cases involving complex ownership structures. Easier access to information on the ownership of land and assets can also be a great advantage to community groups who may lack the finance or legal expertise to trace ownership in more complicated cases.

4.2 The regulations relating to information on persons in control of land will have to be carefully considered, particularly in relation to cases where a decision is made not to disclose information. On reading of the Bill and accompanying documents, it appears to be that the person requesting information could have a genuine need but still be denied access to information which could help them to resolve their issue. To use an example from the policy memorandum, their land or property could be flooded because a river on neighbouring land has been neglected. However, the Bill states that information regarding the person in control of the land could be withheld if the provision of information would put the person in control of the land at risk. If such a situation arises it is not clear how the balance of rights will be struck between the person affected (by flooding) and the person who controls the land.

4.3 Including the option to refuse the provision of information could have a detrimental impact on efforts to develop housing or community assets.

5. Engaging Communities in Decisions Relating to Land

5.1 We support the principles behind engaging with communities and the positive impact that this can have in terms of successful, sustainable regeneration. However, it is essential, given the lack of detail included in the Bill itself, that guidance gives careful consideration to the circumstances under which landowners would be expected to engage with the local community and the scale of such engagement.

5.2 The guidance must also make it clear that engagement has to be meaningful, that communities are given adequate opportunity to express their opinions and that these are taken into account by the landowner.
5.3 It is unclear what incentive landowners will have to follow the guidance or what implications might be of failing to do so. The exception to this seems to be in circumstances where a community group wishes to take over land and lack of consideration of the guidance could be used as evidence to support the application. However, application for ownership is unlikely to be a common occurrence and therefore it would seem that most landowners would be able to disregard guidance with no penalty.

6. Right to Buy Land to Further Sustainable Development

6.1 We support this measure and feel that this will build upon the right to take ownership of neglected or abandoned land to be introduced by the Community Empowerment Act. This power has the potential to facilitate the development of much needed housing in areas where existing homes are scarce or unaffordable. This can be a particularly acute issue in rural areas.

6.2 The option for community groups to involve a third party partner will certainly be of help to groups who are looking to develop housing and, in particular, affordable housing. This is a positive measure.

6.3 However, as we have stated previously, in response to the Community Empowerment Act, if the provisions are to make a real difference, there must be sufficient support available to help community bodies form articulate applications for the right to buy land and with the development process. We noted that it is likely that the most disadvantaged groups, who would probably benefit most from community involvement, are often the ones who need the most help in making their voices heard.

6.4 Local authorities and housing associations certainly have a role to play in this respect but this may become more challenging as finances continue to be squeezed. We were pleased to hear in June 2015 that the Community Ownership Support Service (COSS) received £400,000 additional funding to support the implementation of the Community Empowerment Act but a long term commitment must be made by Scottish Government if the target for 1 million acres of land to be owned by community groups by 2020 is to be realised.