



The Scottish Parliament
Pàrlamaid na h-Alba

Finance and Public Administration Committee

Edward Mountain MSP
Convener
Net Zero, Energy and Transport Committee

28 October 2024

Dear Edward

Land Reform (Scotland) Bill Financial Memorandum

As you are aware, the remit of the Finance and Public Administration Committee (the Committee) includes scrutiny of Financial Memorandums (FMs) for Bills. As such, the Committee has been examining the estimated costs of the Land Reform (Scotland) Bill.

The Committee ran a call for views on the FM, which closed on 18 June 2024 and received 3 responses, from Registers of Scotland, Scottish Land Commission and Scottish Land & Estates, all of which have been published and are available on the Committee's call for views website¹.

The submissions received by the Committee note that elements of the Bill remain subject to secondary legislation and therefore costs cannot be fully assessed at this stage. Both the Scottish Land Commission and Scottish Land and Estates, for example, highlight the potential financial impact of changes to area thresholds. The Bill as introduced includes powers to amend the thresholds for which transfers are in scope by regulation, however, such changes will impact on the number of holdings affected and, therefore, on resource costs for the Scottish Land Commission.

We would like to highlight in particular comments made by Scottish Land & Estates (SLE) in relation to uncertainty of the costs set out in the FM. Their submission identifies potential impacts which they state have not been adequately costed, including potential delays in sales and stagnation in the land market arising from Part 1 provisions, additional professional costs associated with lotting, which will be incurred by a landowner, and the valuation of resumption compensation, which "is now framed to include a proportion of the capital value of the lease [...] a significant additional burden on a landlord because there will usually have been no premium paid by the tenant at the outset of the lease".

SLE's submission further notes a number of issues which your Committee may wish to explore during its scrutiny of the Bill, including:

¹ [Published responses for Land Reform \(Scotland\) Bill: Financial Memorandum - Scottish Parliament - Citizen Space](#)

Contact: Finance and Public Administration Committee, The Scottish Parliament, Edinburgh, EH99 1SP. Email FPA.committee@parliament.scot. We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

- legal and professional costs associated with litigation to challenge the validity of the valuation provisions for resumption;
- compensation payable for tenant improvements; and
- landowners being able to recoup game damage compensation from a sporting tenant.

We would also highlight comments made by the Registers of Scotland (RoS) in their submission, that while costs in the FM are based on best estimates, they do not include any contingency amounts, nor does the FM include estimated costs for proposed enhancements to the Register of Community Interests in Land (Community Bodies) to include the pre-notification of intention of sale, though we understand RoS do not expect these to be significant.

We note that the Bill also establishes a new Commissioner within the Scottish Land Commission to be known as the “Land and Communities Commissioner”, with responsibilities in relation to the new obligations on landowners and the transfer test. According to the Bill’s FM, the costs associated with appointing the Commissioner will fall on the Scottish Government.

The Scottish Land Commission’s submission emphasises the statement, in the FM, that the Commission will require ongoing resource funding to cover the costs for the new Land and Communities Commissioner and additional staffing costs. The FM proposes that these costs would be partially met through existing funding to the Commission by reducing their current activities, such as their policy work, while it also acknowledges that additional funding will be required in order to fully fund these new functions. In their submission, the Commission explains that meeting part of the additional costs through their existing budget will mean cutting delivery of policy research and advice, with implications for existing functions. It further states that the staffing assumptions in the FM represent a minimum requirement and the Commission expects additional costs in relation to IT and professional advice (e.g., land agency advice).

As you may be aware, the Committee has recently concluded its inquiry into Scotland's Commissioner Landscape: A Strategic Approach². While our inquiry focused specifically on SPCB supported bodies, many of our findings are relevant to the creation of other types of Commissions and Commissioners, and public bodies more generally. During our inquiry, we received evidence of duplication and overlap between existing SPCB supported bodies and other public bodies in Scotland, which appears to be currently managed through collaboration and co-ordination of activities.

We heard that the current model of SPCB supported bodies is no longer fit-for-purpose and that, in the absence of a clear and coherent framework underpinning how the overall landscape should operate, it has developed in an ‘ad hoc’ way with individual proposals being agreed on a case-by-case basis. This approach has led to a disjointed landscape comprised of a collection of individual bodies, with varying functions and powers. Our report³, published on 16 September 2024, therefore calls

² [Scotland's Commissioner Landscape: A Strategic Approach | Scottish Parliament Website](#)

³ [Report on Scotland's Commissioner Landscape: A Strategic Approach \(parliament.scot\)](#)

for “a moratorium on creating any new SPCB supported bodies, or expanding the remit of existing bodies, until a ‘root and branch’ review of the structure is carried out.” I would like to take this opportunity to also highlight the Committee’s upcoming debate on Scotland’s Commissioner Landscape, to take place on Thursday 31 October 2024.

While the above conclusions and recommendations do not directly apply to the Scottish Land Commission and its Commissioners, we would invite you to consider these issues in the context of the Bill. In particular, we would encourage your Committee to seek clarification from the Scottish Government on how it has satisfied itself that another Commissioner, with the additional costs that this would bring, is required and how it is ensuring there will be no overlap and duplication in activities.

We hope that the evidence received by this Committee on the FM, alongside the conclusions and recommendations set out in our report on Scotland’s Commissioner Landscape: A Strategic Approach, will help inform your Committee’s scrutiny of the Bill at Stage 1.

Yours sincerely

A handwritten signature in blue ink that reads "Kenneth J Gibson". The signature is written in a cursive style with a large initial 'K'.

Kenneth Gibson MSP
Convener
Finance and Public Administration Committee