LR16 Land Reform (Scotland) Bill [As Passed]: Part 1

The Land Reform (Scotland) Bill was passed by a majority of the Scottish Parliament on 5th November 2025. It is expected to receive Royal Assent before the end of the year but will not be fully implmented for a number of years as secondary legislation and guidance need to be developed first.

Part 1 of the Bill makes changes to the law concerning large landholdings (over 1000ha) in terms of new duties for community engagement, changes to the community right to buy process requiring notification to Ministers of planned sales as well as the potential for enforced lotting before sale.

Part 2 of the Bill makes changes to law relating to leasing of land including small landholdings and agricultural tenancies.

This Briefing provides further information about Part 1 of the Bill only. Information about Part 2 can be found in Briefing Note LR17.

Overview of Part 1

Part 1 of the Bill makes changes to management and transfers of (and from) large landholdings of more than 1000 hectares. The measures will take some time to be fully implemented and will bring forward the following changes:-

- Community Engagement duties including publication of a land management plan and consideration of lease requests from community bodies. (Amends Land Reform (Scotland) Act 2016 "the 2016 Act").
- Prohibition on most types and areas of transfer of land or buildings from a large landholding for a period to allow a further opportunity to be given to communities to register an interest in buying. (Amends Land Reform (Scotland) Act 2003 "the 2003 Act"))
- Prohibition on most transfers of 1000ha or more pending a lotting decision being made by Ministers. (Amends the 2003 Act)
- Establishment of a Land and Communities Commissioner as part of the Scottish Land Commission with responsibility for enforcing community engagement duties and advise Ministers in relation to lotting decisions. (Amends the 2016 Act).

Regulations for creating community engagement obligations

- Ministers will have the power to make regulations which impose obligations on the owners of large land holdings (defined below). The obligations must be informed by the Land Rights and Responsibilities Statement.
- The Land and Communities Commissioner and any other persons Ministers consider appropriate must be consulted before drafts of these regulations are made.
- Ministers must issue guidance about the obligations. It must be made publicly available.

Land and Communities Commissioner

- A Land and Communities Commissioner ("LCC") will be created.
- This is to be a person with expertise or experience in land management and community empowerment.
- Owners of large landholdings (or people who owned such a holding up to one year prior) are disqualified from being the LCC.
- The LCC is to primarily enforce community engagement obligations and to prepare reports for Ministers in relation to lotting decisions.

Community engagement duties

- One of the most notable community engagement obligations will be the requirement for owners of large land holdings to create a land management plan ("LMP").
- An LMP must contain:-
    (1) Details of the land to which the plan relates, including how the ownership is structured;
    (2) The owner's long-term vision and objectives for managing the land, including its potential sale;
    (3) The steps taken by the owner to engage with communities, tenants, crofters and small landholders in relation to the development of the plan;
    (4) How that engagement influenced the plan's development;
    (5) How the owner is complying or intends to comply with—

- The obligations set out in the regulations;
- The Scottish Outdoor Access Code;
- The code of practice on deer management;

(6) How the owner is managing or intends to manage the land in a way that contributes towards—

- Achieving the net-zero emissions target set by section A1 of the Climate Change (Scotland) Act 2009;
- Adapting to climate change and increasing biodiversity;

(7) How the owner is having regard to (or intends to have regard to) any local place plan in relation to the land (in whole or in part).

- The regulations will also require the owner of the land to give consideration to a "reasonable request" from a community body to lease all or part of the land (including buildings). The same applies for a request to put land into crofting tenure. There is no obligation to agree to the request but consideration must be given.

Definition of a large landholding

- The land that is within the scope of all the Part 1 measures is currently defined in the same way, although differing definitions could be introduced in future by regulations.
- A large landholding is either a "*single holding*" or a "*composite holding*" that exceeds 1,000ha. This includes land covered by water such as lochs or rivers and the foreshore but not the seabed.
- A "*single holding"* means the whole of a contiguous area of land in the ownership of one person or sets of persons. An area of land is *"contiguous"* with another if any part of the area is within 250m of any part of the other.
- Two or more single holdings form a "*composite holding*" if:-

  (1) Each of the single holdings is contiguous with at least one of the others; and

  (2) The owner of one single holding ("holding A")—

    (i) is an owner or connected to the owner of another single holding ("holding B") with which holding A is contiguous; and

    (ii) where there are more than two single holdings, is also the owner of, or connected to the owner of, every other single holding.

- *"Contiguous"* is defined slightly differently for "c*omposite holding" than it is for "single holding".* A composite holding is contiguous if:-

(1) A boundary of the holding is (wholly or partly) contiguous with a boundary of the other; and
(2) A boundary of a holding is to be treated as being contiguous with a boundary of another if any part of the boundary is within 250 meters of the other.

- A schedule to the Bill sets out how a person is determined as being connected to another person by reference to whether or not a person should be registered in various public registers. These registers include the Register of Controlling Interests (kept by the Land Register) and the Register of People with Significant Control (kept by Companies House). This is quite a complex definition and professional advice may be required in order to ascertain whether or not any entity or persons owning land are "connected".

Enforcement of obligations (breaches, fines & enforcement notices)

- The Bill lists the persons or bodies that may report an alleged breach of a community engagement obligation. The list includes: a community body that has registered an interest (or is eligible to register an interest) via the Part 2 community right to buy, the Crofting Commission, a grazings committee, Highlands and Islands Enterprise, Historic Environment Scotland, a local authority and SEPA.
- Note that some of the persons listed above are area-dependent and, as such, can only report alleged breaches if land to which the report relates falls wholly or partly within their respective area. For example, a grazings committee can only report an alleged breach if the land to which the report relates falls wholly or partly within their respective common grazings.
- The LCC must investigate all sufficiently detailed reports of breaches. The landowner who has been reported must be notified and sent a copy of the report.
- During their investigation, the LCC can require a person to provide information they consider appropriate for the purpose of the investigation. Failure to do so can result in a fine of up to £1,000.
- Where the LCC finds that an obligation has been breached, they may impose a fine on the person who committed the breach of up to £40,000.
- However, the LCC may only impose a fine if the person that committed the breach has been given an opportunity to reach an agreement with the LCC about what the person must do to remedy the breach and the person has either:-
    - Refused to reach an agreement; or
    - Having reached an agreement, has failed to fulfil it.

Or,

- The LCC does not consider it appropriate to give the person that committed the breach an opportunity to remedy the breach, having regard to the person's previous failure (or failures) to comply with an obligation.

- A landowner who has been issued a fine may appeal to the Lands Tribunal within 28 days. The Tribunal may overturn, confirm or vary the fine.
- If the breach is still not remedied after the time period expires (despite a fine being issued), the LCC may then serve the landowner an "*enforcement notice*". This is a notice which specifies the steps that must be taken to remedy the breach and the time within which it must be completed (not less than 28 days from the day the notice was received).
- If the breach is still not remedied in the period set out by the enforcement notice, the LCC may issue a further fine of up to £40,000. This can also be appealed.

Prohibition on Sale pending Prior Notification (community right to buy)

- These provisions amend the existing late application procedure for Community Right to Buy under the 2003 Act and essentially give communities additional time to register an interest when they become aware land is to be transferred.
- Anyone will be able register with Ministers that they wish to be notified if a transfer is proposed from a large landholding (as defined above). Ministers must keep a list of the contact details of these persons.
- The owner of a large landholding must notify Ministers if they propose to transfer any part of their holding and a prohibition on transfer will apply until Ministers give notice that the prohibition is lifted. The prohibition can remain for up to two years. The interraction between notices of intention to transfer and triggering lotting notes in teh section below should be noted.
- Ministers will publicise on a website that the landowner intends to transfer the land and also send details of the possible transfer to everyone on the list referred to above as well as the relevant local authority.
- Ministers must then invite notes of interest in registering a community interest in respect of all or part of the land. There will be 30 days for persons to submit notes of interest. These notes of interest could be from individuals on behalf of a community body.

- If no notes of interest are received or there are none which are likely to be successful in progressing to a registration of a community interest, Ministers may choose to lift the prohibition. This should be no more than 60 days from the date they publicised the intended transfer.
- However, if Ministers receive a note of intention to register a community interest in that land and they deem it is likely a community body will apply to register an interest and that such application has a reasonable prospect of succeeding, the landowner will be prohibited from transferring (or taking any action with a view to a transfer) the land for further 70 days.
- In exceptional circumstances, Ministers may disapply the prohibition if the landowner intends to transfer the land in order to “alleviate, or avoid, financial hardship” and “having to wait for the prohibition [...] is likely to cause, or worsen, financial hardship for the owner”. There is also an ability for an owner to request in a prescribed manner that the prohibition on sale is lifted. The circumstances when that might be allowed and the prescribed form of the request will be in secondary legislation. The types of transfers which are exempted from this process are the same as for community right to buy such as transfers otherwise than for value, transfers between spouses or transfers between companies in the same group. Ministers may by regulations prescribe other types of transfers as being exempt.
- Land that would be excluded from the community right to buy in the 2003 Act is also excluded from this process. Ministers must also deny a registration of interest where missives had already been concluded or an option had already been conferred before any action was taken with a view to transfer.
- A declaration will need to be made in any transfer deed confirming that a transfer is not in contravention of the prohibitions or explaining why it is exempt.

Lotting

- An owner must apply to Ministers in a prescribed form for a “lotting decision” where a large landholding (defined broadly as before subject to the caveat below) is intended to be transferred. There is a prohibition on sale pending a decision to lot or not to lot. A decision to lot will mean lots must be sold to unconnected buyers. A transfer of a large landholding is void if no lotting decision is in effect in relation to the land.
- It should be noted that a lotting decision could be triggered if a transfer of 50ha or more occurs at the same time as one or more separate transfers are intended of less than

1000ha but the total land being transferred (missives not concluded) would take you over the 1000ha threshold. If a large landholder is selling a number of parcels of land then care must be taken in respect of the timing of concluding missives and notifying Ministers of intended transfers.

- A decision to lot is made where Ministers consider it to be in the public interest, which is viewed for these purposes in terms of improving local community sustainability. Such a decision must specify the lots and provide a statement of reasons as to why Ministers consider the decision is in the public interest.
- Ministers must make a decision to lot within six months from when they received the application from the landowner. However, a decision is still valid if Ministers fail to comply with the six-month time period.
- A lotting decision ceases to have effect if:-
  (1) Ownership of the area is transferred to a person who is not connected to the person transferring it;
  (2) The applicable period expires (five years, or one year for an "expedited lotting decision");
  (3) Ministers withdraw the decision; or
  (4) The decision is quashed following an appeal.
- A landowner (or owner of part if it is a composite holding) can request Ministers not to make a lotting decision and the manner of making such a request is to be prescribed in regulations, so the circumstances that would warrant an application like this are not set out.
- The LCC must, when requested, prepare a report to inform Ministers' making of a lotting decision. Ministers cannot make a decision to lot without taking this report into account.
- If the landowner intends to transfer the land in order to "alleviate, or avoid, financial hardship" and "having to wait for a lotting decision [...] is likely to cause, or worsen, financial hardship", they can request Ministers make a decision that the land need not be lotted. This is called an "expedited lotting decision".
- If any lots are not sold, Ministers may offer to buy the land if they are satisfied that it is "likely" that the land not selling is due to it being less commercially attractive than if the principal landholding was not lotted. For determining the price of the land, Ministers would use a valuer appointed by them. Should the valuation be appealed, the Lands Tribunal will determine the appropriate price.
- A landowner intending to transfer a large landholding may appeal against the lotting decision to the Court of Session if the decision is based on an error of fact or law, of if it

is unreasonable. If the Court quashes the original decision, Ministers are to make another one.

- A landowner is entitled to compensation if they suffer loss or expense from lotting. The amount of compensation payable is determined by the Minsters (or, on appeal, the Lands Tribunal). The heads of compensation are wide and the amount of the payment is required to “fully compensate” a person for any loss or expense incurred in complying with procedural requirement of the Bill, attributable to a potential transfer being prevented or attributable to a decision to lot. Regulations will set out how claims are to be made and how compensation amounts will be determined. There will be consultation on these regulations.
- Ministers can be requested by the landowner to review a lotting decision. Within three months, Ministers must either confirm the lotting decision or withdraw it and make a new one. A review decision completed outwith the three-month period is still valid.
- Ministers must issue guidance about making lotting decisions. This must include information about how Ministers expect the process to operate in practice, how Ministers will take crofted or tenanted land into consideration in a lotting decision and details about the report that the LCC must publish.
- The guidance must be created with regard to the “public interest”, which is defined as including:-
    - The desirability of achieving a more diverse ownership of land, including more community ownership of land;
    - Furthering sustainable development;
    - Securing a greater proportion of community owner energy; and
    - Advancing community wealth building.
- Notice of the lotting decision is to be given to the owner and any creditor with a standard security over the land. Ministers must also notify all those on the list of persons referred to above for prior notification who wished to be notified about potential transfers of land.

Next Steps: Implementation

The Bill requires Royal Assent to become an Act. The only sections which come into force on Royal Assent will be the duty to publish a model lease for environmental purposes within 2 years as well as certain regulation-making powers.

Given the number of consultations and regulations that will be required to give full effect to Part 1, it is anticipated it may be a number of years before it will all come into force.

The first regulations likely to be made are those relating to community engagement which will first require the appointment of the LCC. Regulations will also be required to set out the various prescribed forms for the prohibitions on sale relating to prior notification and lotting. A timetable for these is not yet known.

SLE will be involved in influencing all consultations and the parliamentary scrutiny of all regulations as they come forward.

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