



Law Society
of Scotland

Written Evidence

Experience of Concentrated Land Ownership

May 2018



Introduction

The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the United Kingdom and Scottish Governments, Parliaments, wider stakeholders and our membership.

Our Rural Affairs sub-committee welcomes the opportunity to consider and respond to the Scottish Land Commission's call for evidence on Experience of Concentrated Land Ownership¹. We do not seek to respond to the consultation questions but have the following general comments to put forward for consideration.

General comments

It is of importance that this work considers not just the scale and concentration of ownership of land, but also the use and value of land. These matters must be considered against the background of both urban and rural land.

We note that Scotland has an unusually concentrated pattern of land ownership when compared to other countries. Scotland however has substantial levels of rough grazing and hill land. This demonstrates a different character of land from that in several other countries.

There is a multiplicity of rights which can be held in the land. In Scotland, crofting rights, common grazing rights, agricultural tenancies, and shared rights in hill grazing are widely held. Although there may, on the face of it, be a concentrated pattern of land ownership, there are a number of people holding substantial rights in such areas of land. Where crofting rights and agricultural and small holding tenancies exist, the landowner has already lost significant control over those areas of land.

Not only is there a variety of rights held in land, many concentrated areas of land offer benefits to the community. We appreciate that this will not be the case in each concentrated area of land. In some places,

¹ <https://landcommission.gov.scot/call-for-evidence/>

it may be that benefit is offered but the community is not aware of the nature or extent of this. Land owners should be encouraged to engage with the community where possible. Whilst it is appreciated that matters such as legitimate interest and monopolistic behaviours must be considered in relation to land, the terms of Protocol 1, Article 1 (P1A1) of the European Convention on Human Rights, must also be borne in mind. P1A1 provides that:

“(1) Every natural or legal person is entitled to the peaceful enjoyment of his possessions...”

This provides a degree of protection to those with an interest in land. It is of constitutional importance that these rights are protected. Although engagement with the community should be encouraged, it should not be mandatory or as a condition on ownership of land such as to interfere with P1A1.

We hope that these comments are helpful. Please do not hesitate to contact us should you wish any further information.

For further information, please contact:

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