

Respondent Information Form

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Are you responding as an individual or an organisation?

Organisation

Full name or organisation's name

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The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

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Information for organisations:

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If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

Questions

Criteria for large-scale landholdings

Q1. Do you agree or disagree with the criteria proposed for classifying landholdings as 'large-scale':

- a) A fixed threshold of 3,000 hectares Agree
- b) Land that accounts for more than a fixed percentage of a data zone (or adjacent data zones) or local authority ward(s) designated as an Accessible Rural Area or Remote Rural Area, through our six-fold urban/rural classification scheme Agree
- c) Land that accounts for more than a specified minimum proportion of a permanently inhabited island Agree

Please give some reasons for your answer and outline any additional criteria:

The SURF network appreciates the challenge of demarcating 'large-scale' landholdings from the rest. Size is certainly a key factor. SURF discussions indicated that 3,000 hectares is too high a threshold, and 1,000 hectares would be more appropriate in targeting the policy at a slightly higher proportion of landowners that are managing land at a scale at which they should reasonably be expected to adhere to the proposals.

It was noted that some large-scale landowners may seek to split their landholdings via a superficial paper exercise to avoid any new obligations, while maintaining full ownership and control of the original landholding in practice, which policy-makers should monitor and address. It is unclear whether any land-holdings that represent a significant percentage of a data zone, would not be subject to the proposals anyway under the size threshold.

Q2. Do you agree or disagree that family farms should be exempt from the proposals outlined in Parts 5 to 7 even if they are classified as a 'large-scale' landholding?

Disagree

Please give some reasons for your answer:

If the SURF network's size threshold of 1,000 hectares is accepted, the vast majority of Scottish farms, which are smaller than 500 hectares, will be exempt from proposals. It would be fair and reasonable to apply the proposals to all large-scale landowners, regardless of land use classification. We note that no legal definition of "family farm" has been provided.

Q3. Do you think that the proposals considered in this consultation should be applied to the urban context?

Yes

Please give some reasons for your answer:

SURF regeneration policy manifestos, widely consulted and prepared over the 18 months leading up to Scottish Parliament elections, regularly cite enthusiasm for replicating community land buyouts, and other successful examples of land reform in rural areas, in Scotland's towns and cities. The mismanagement and absentee ownership of urban land has a negative impact on many urban communities regardless of the size of the land parcel and without sight of how this may be dealt with in other Bills it is disappointing that urban land is not considered in these proposals.

The SURF network has previously called for community groups in urban areas to be given more powers and additional support to progress aspirations to own or lease land and buildings, in situations where this would result in clear physical, social and economic benefits for disadvantaged places.

Strengthening the Land Rights and Responsibilities Statement

Q4. We propose that there should be a duty on large-scale landowners to comply with the Land Rights and Responsibility Statement and its associated protocols. Do you agree or disagree with this proposal?

Agree

Please give some reasons for your answer:

Yes. SURF believes the Land Rights and Responsibility Statement is a valuable set of principles with practical scope to inform decision-making around land use, and deliver better outcomes for community empowerment, social justice, and sustainable economic development.

In a 2022 consultation response to a five year review of the 2017 Statement, we argued that general awareness of the Statement is low across all sectors, with exceptions among academics and researchers, relevant local government departments, and some community groups that are already engaging in formal land and building change-of-ownership processes.

Making compliance with the Statement a formal duty rather than an optional suggestion for large-scale landowners, would not only benefit use and compliance, but would raise awareness across all stakeholders. This is a logical progression given the efforts made into producing the practically valuable Statement. There is further logic in promoting compliance across all landowners.

Q5. If there was a legal duty on large-scale landowners to comply with the Land Rights and Responsibility Statement and its associated protocols, we propose that this should be enforced by having a formal procedure for raising complaints, and by making provisions for independent adjudication and enforcement.

a) Do you agree or disagree with the proposal above?

Agree

Please give some reasons for your answer:

A reporting mechanism that will help ensure effective implementation would be a sensible addition to the proposals.

b) Do you agree or disagree that only constituted organisations that have a connection to the local area or the natural environment should be able to report breaches of the Land Rights and Responsibility Statement?

Disagree

Should these constituted organisations have a remit on:

- | | |
|------------------|-------------------------------|
| • Community | Agree / Disagree / Don't know |
| • Charity | Agree / Disagree / Don't know |
| • Public service | Agree / Disagree / Don't know |

Please provide some reasons for your answers and any additional suggestions:

Regardless of which body raises the complaint, what matters is whether the complaint is valid and enforceable. There is value in enabling all types of organisation to raise formal complaints.

c) Do you think the responsibility for investigating and dealing with complaints should sit with:

- | | |
|--|------------|
| • the Scottish Government | Don't know |
| • a public body (such as the Scottish Land Commission) | |

Don't know

Please provide some reasons for your answers and any additional suggestions:

There are mixed views in the SURF network on where this responsibility should sit. While some argued the Scottish Land Commission would be a natural choice, others felt a regulatory role may reduce its ability to campaign effectively for policy change. One solution may be to demarcate the Commission into separate regulatory and campaigning arms.

d) Should the potential outcome from an investigation of a breach be:

- Recommendation for a mediation process Don't know
- Recommendation on how the landowner or governing body could comply with the Codes of Practice/protocols Don't know
- A direction to the landowner or governing body to implement changes to operational and/or management practices Don't know

Please provide some reasons for your answers and any additional suggestions:

The SURF network provided no views on this.

e) Should the enforcement powers for a breach be:

- Financial penalties Don't know
- 'Cross-compliance' penalties Don't know

Please provide some reasons for your answers and any additional suggestions:

The SURF network provided no views on this.

Q6. Do you think the proposal to make the Land Rights and Responsibility Statement and its associated protocols a legal duty for large-scale landowners would benefit the local community?

Yes

Please give some reasons for your answer:

As previously stated in Q4, there is a consensus in the SURF network that the Land Rights and Responsibility Statement has a valuable role in responding to social and economic challenges across Scotland and improving our communities.

Q7. Do you have any other comments on the proposal to make the Land Rights and Responsibility Statement and its associated protocols a legal duty for large-scale landowners?

There is a wider challenge, regularly raised at SURF events, around the volume and complexity of policies and strategies relating to land reform, community empowerment and place-based regeneration. This makes for a challenging context in which to significantly raise awareness of new duties. One tried-and-tested approach is to commission a wide ranging activity programme, that could utilise a variety of communications channels from workshops and webinars to conference presentations and blogs, to ensure strong knowledge and understanding of the Statement and its protocols and duties across land-owners and relevant sectors.

Compulsory Land Management Plans

Q8. We propose that there should be a duty on large-scale landowners to publish Management Plans. Do you agree or disagree with this proposal?

Agree

Please give some reasons for your answer:

Land Management Plans have clear value in demonstrating compliance with the proposals among large-scale and-owners and supporting wider partnership and place-based regeneration activity. The SURF network raised some challenges around ensuring some consistency in depth and quality on Management Plans across the wide variety of land use types, from housing and energy to agriculture and forestry.

Q9. How frequently do you think Management Plans should be published?

The SURF network provided no views on this.

Q10. Should Management Plans include information on:

- Land Rights and Responsibility Statement compliance Yes
- Community engagement Yes
- Emission reduction plans Yes
- Nature restoration Yes
- Revenue from carbon offsetting/carbon credits Yes
- Plans for developments/activities that will contribute to local and inclusive economic development or community wealth building Yes

Please provide some reasons for your answers and any additional suggestions:

The above information would be highly relevant, with the caveat that some land use types may not be able to contribute to certain areas. SURF is particularly interested in learning more about how large-scale landowners plan to contribute to community engagement, economic development and community wealth building agendas.

Q11. Do you think the responsibility for enforcing compulsory land management plans should sit with:

- the Scottish Government Don't know
- a public body (such as the Scottish Land Commission)

Don't know

Please provide some reasons for your answers and any additional suggestions:

As per the response to Q5c, there are mixed views in the SURF network on where this responsibility should sit.

Q12. Do you think the proposal to make Management Plans a legal duty for large-scale landowners would benefit the local community?

Yes

Please give some reasons for your answer:

If nothing else, Land Management Plans will provide the community with access to information on matters of interest, provide new opportunities for scrutiny and community engagement, and improve transparency and accountability. All of these outcomes have wider value for enhancing community participation in place-based plans and approaches.

Q13. Do you have any other comments on the proposal to make Management Plans a legal duty for large-scale landowners?

No.

Regulating the market in large-scale land transfers: a new Public Interest Test, and a requirement to notify an intention to sell

Q14. We propose that a public interest test should be applied to transactions of large-scale landholdings. Do you agree or disagree with this proposal?

Agree

Please give some reasons for your answer:

A public interest test would have value in exploring scope for accruing additional social and economic benefits from large-scale transaction.

Q15. What do you think would be the advantages and/or disadvantages of applying a public interest test to transactions of large-scale landholdings?

The advantages would lie in preventing potential transactions from taking place that would be damaging to local people and places. How straightforward it would be to judge what potential transactions would pass or fail the public interest test, is an open question, and careful consideration would be required on the processes and definitions adopted. In the spirit of the consultation the PIT would have to give primacy to the local public interest.

Q16. Do you think the public interest test should be applied to:

The buyer only

Please give some reasons for your answer:

It would be important for the proposed new landowner to pass the public interest test.

Q17. If the public interest test was applied to the seller, do you think the test should be considered as part of the conveyancing process?

Don't know

Please give some reasons for your answer:

The SURF network provided no views on this.

Q18. Do you think that all types of large-scale landholding transactions (including transfers of shares and transfers within or between trusts) should be in scope for a public interest test?

Don't know

Please give some reasons for your answer:

The SURF network provided no views on this.

Q19. We have proposed that if a public interest test applied to the seller concluded there was a strong public interest in reducing scale/concentration, then the conditions placed on the sale of the land could include:

- i. The land in question should be split into lots and could not be sold to (or acquired by) one party as a whole unit
- ii. The land, in whole, or in part, should be offered to constituted community bodies in the area, and the sale can only proceed if the bodies consulted, after a period of time, indicate that they do not wish to proceed with the sale

Do you agree or disagree with these conditions?

- Condition i. Don't know
- Condition ii. Don't know

Please give some reasons for your answer and suggest any additional conditions:

The SURF network provided no views on this.

Q20. Do you think that a breach of the Lands Right and Responsibilities Statement should be taken into account when determining the outcome of a public interest test?

Yes

Please give some reasons for your answer:

As stated in our response to Q4, the SURF network is enthusiastic about the potential value of the Land Right and Responsibilities to Statement to places and communities. This value will not be realised if the Statement remains low-profile and voluntary. Alignment with the key principles should be a formal component of a public interest test.

Q21. Do you think that a public interest test should take into account steps taken in the past by a seller to:

a) Diversify ownership

Don't know

b) Use their Management Plan to engage with community bodies over opportunities to lease or acquire land

Don't know

Please give some reasons for your answers:

The SURF network provided no views on this.

c) What time period do you think this should cover?

The SURF network provided no views on this.

Q22. Do you think the responsibility for administering the public interest test should sit with:

• the Scottish Government

Don't know

• a public body (such as the Scottish Land Commission)

Don't know

Please provide some reasons for your answers and any additional suggestions:

As per the response to Q5c and Q11, there are mixed views in the SURF network on where this responsibility should sit.

Q23. Do you think the proposal that a public interest test should be applied to transactions of large-scale landholdings would benefit the local community?

Yes

Please give some reasons for your answer:

A public interest test on transactions would benefit any rural and urban communities affected by changes of ownership in land-scale landholdings. If any transactions identified as running counter to local interests are prevented, while useful and constructive transactions are approved, local communities will benefit from the new policy mechanism.

Q24. Do you have any other comments on the proposal that a public interest test should be applied to transactions of large-scale landholdings?

No.

Q25. We propose that landowners selling large-scale landholdings should give notice to community bodies (and others listed on a register compiled for the purpose) that they intend to sell.

a) Do you agree or disagree with the proposal above?

Agree

Please give some reasons for your answer:

Notification of intentions to sell large-scale landholdings will promote a wide range of important policy areas, including land reform, planning, community empowerment, community wealth building and community led regeneration, which are providing new powers and opportunities for community groups to control, participate and inform local decision-making.

SURF has supported a community buyout in Langholm, Dumfries and Galloway, which is resulting in a great deal of positive change for the town in tourism, energy, economic development, housing and climate change. The buyout emerged following an opportunity to buy land owned by the Buccleuch Estate. As more opportunities open up to community groups, further positive change is possible.

More generally, it is widely beneficial for community groups to be aware of important changes to local land use and ownership, and notification will have value even if there is no resulting action beyond improved understanding.

b) Do you agree or disagree that there should be a notice period of 30 days for the community body or bodies to inform the landowner whether they are interested in purchasing the land?

Agree

Please give some reasons for your answer:

SURF discussions indicated the need to increase the notice period to 60 days, to enable groups that meet less often than once a month adequate time to review and prepare any plans to register an interest in a potential buyout.

c) If the community body or bodies notifies the landowner that they wish to purchase the land during the notice period, then the community body or bodies should have 6 months to negotiate the terms of the purchase and secure funding. Do you agree or disagree with this proposal?

Disagree

Please give some reasons for your answer:

This is a very tight timescale for a community raise substantive funds and would possibly build in failure. The criteria of many of the grant giving bodies would be mean there is insufficient time to provide the necessary detail to qualify for support and communities may need anything from 8 months to 2 years to be in a position to complete this process. A 6 month limit would mean only well resourced communities could take up the opportunity.

Q26. Do you have any other comments on the proposal that landowners selling large-scale landholdings should give notice to community bodies that they intend to sell?

SURF has raised general issues in the past about the need for additional support for community groups lacking experience and knowledge on land use and ownership, to engage in fundraising and negotiation. Such support could include advice, guidance, the provision of case studies, access to other community groups that manage land, and an increase in public and voluntary sector funding available to land buyouts and resulting projects.

New conditions on those in receipt of public funding for land based activity

Q27. We propose the following eligibility requirements for landowners to receive public funding from the Scottish Government for land based activity:

- i. All land, regardless of size, must be registered in the Land Register of Scotland.
- ii. Large-scale landowners must demonstrate they comply with the Land Rights and Responsibility Statement and have an up to date Land Management Plan.

Do you agree or disagree with these requirements?

a) Requirement i. Agree

b) Requirement ii. Agree

Please give some reasons for your answers:

These conditions align well with the wider policy aspirations to improve transparency, accountability and scrutiny of large-scale land use, and the potential for delivering greater benefits for local communities in relevant planning and decision-making.

Q28. Do you have any other comments on the proposals outlined above?

No.

Land Use Tenancy

Q29. Do you agree or disagree with our proposal that there should be a Land Use Tenancy to allow people to undertake a range of land management activities?

Don't know

Please give some reasons for your answers:

The SURF network provided no views on this.

Q30. Are there any land management activities you think should not be included within a Land Use Tenancy?

The SURF network provided no views on this.

Q31. Do you think that wider land use opportunities relating to diversification, such as renewable energy and agri-tourism, should be part of a Land Use Tenancy?

Don't know

Please give some reasons for your answers:

The SURF network provided no views on this.

Q32. Do you agree or disagree that a tenant farmer or a small landholder should, with the agreement of their landlord, have the ability to move their agricultural tenancy into a new Land Use Tenancy without having to bring their current lease to an end?

Don't know

Please give some reasons for your answers:

The SURF network provided no views on this.

Q33. Do you agree or disagree that when a tenant farmer or small landholders' tenancy is due to come to an end that the tenant and their landlord should be able to change the tenancy into a Land Use Tenancy without going through the process of waygo, with parties retaining their rights?

Don't know

Please give some reasons for your answers:

The SURF network provided no views on this.

Q34. How do you think the rent for a Land Use Tenancy should be calculated?

The SURF network provided no views on this.

Q35. Would you use a Land Use Tenancy if you had access to a similar range of future Scottish Government payments which other kinds of land managers may receive?

No

Please give some reasons for your answers:

SURF does not own or manage land.

Q36. Do you think that there should be guidance to help a tenant and their landlord to agree and manage a Land Use Tenancy?

Don't know

Please give some reasons for your answers and outline who you think should be responsible for writing and managing the guidance:

The SURF network provided no views on this.

Q37. Do you think there should be a process to manage disputes between a tenant of a Land Use Tenancy and their landlord?

Don't know

Please give some reasons for your answers and outline how this process could be managed:

The SURF network provided no views on this.

Q38. Do you agree or disagree that tenants of a Land Use Tenancy and their landlords should be able to resolve their legal disputes in relation to the tenancy through the Scottish Land Court?

Don't know

Please give some reasons for your answers and outline additional ways in which disputes could be resolved:

The SURF network provided no views on this.

Q39. Do you have any other comments on our proposal for a Land Use Tenancy?

No

Please give some reasons for your answers:

No other comments.

Small landholdings

Q40. Would you like to be kept informed via email about the Small Landholding Consultation for the Land Reform Bill?

Yes

Transparency: Who owns, controls and benefits from Scotland's Land

Q41. Do you agree or disagree with our proposal to explore:

- Who should be able to acquire large-scale landholdings in Scotland
Don't know
- The possibility of introducing a requirement that those seeking to acquire large-scale landholdings in Scotland need to be registered in an EU member state or in the UK for tax purposes
Don't know

Please give some reasons for your answers:

Knowing who owns land is important for transparency purposes but requiring them to be registered in the UK or EU does not appear to make any difference to whether they will use land in the public interest.

Other land related reforms

Q42. Do you have any views on what the future role of taxation could be to support land reform?

The SURF network has raised general issues around the economic drivers that lead individuals and organisations to purchase and manage large-scale landholdings in particular ways. Tax changes could positively affect large-scale landowner behaviour in promoting land use activities that prioritise community benefits, although SURF has no specific recommendations relating to the linkages between land reform and current tax models but notes that land value tax is repeatedly cited by others and fundamental to improving land owner behaviours.

Q43. How do you think the Scottish Government could use investment from natural capital to maximise:

a) community benefit

The SURF network provided no views on this.

b) national benefit

The SURF network provided no views on this.

Q44. Do you have any additional ideas or proposals for Land Reform in Scotland?

No.

Assessing impact

Q45. Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on island communities in a way that is different from the impact on mainland areas?

The SURF network provided no views on this.

Q46. Are you aware of any examples of particular current or future impacts, positive or negative, on young people, (children, pupils, and young adults up to the age of 26) of any aspect of the proposals in this consultation?

The SURF network provided no views on this.

Q47. Are you aware of any examples of how the proposals in this consultation may impact, either positively or negatively, on those with protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)?

The SURF network provided no views on this.

Q48. Are you aware of any examples of potential impacts, either positive or negative, that you consider any of the proposals in this consultation may have on the environment?

The SURF network provided no views on this.

Q49. Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on groups or areas at socioeconomic disadvantage (such as income, low wealth or area deprivation)?

The SURF network provided no views on this.

Q50. Are you aware of any potential costs and burdens that you think may arise as a result of the proposals within this consultation?

The SURF network provided no views on this.

Q51. Are you aware of any impacts, positive or negative, of the proposals in this consultation on data protection or privacy?

The SURF network provided no views on this.