



SPICe

The Information Centre

SPICe Briefing

Community Empowerment (Scotland) Bill

22 September 2014

14/58

Allan Campbell, Angus Evans, Laura Gilman, Alasdair Reid

This Briefing summarises and analyses the key provisions in the Community Empowerment (Scotland) Bill, introduced in the Parliament on 11 June 2014. The Bill seeks to reform areas such as community planning, community right to buy land, involvement of communities in public service delivery and communities taking on public assets.



The Scottish Parliament
Pàrlamaid na h-Alba

CONTENTS

EXECUTIVE SUMMARY	4
BACKGROUND AND POLICY CONTEXT	5
THE BILL AND THIS BRIEFING	5
LOCAL GOVERNMENT AND REGENERATION COMMITTEE SCRUTINY	5
PART 1: NATIONAL OUTCOMES	6
PART 2: COMMUNITY PLANNING	7
CURRENT FRAMEWORK	7
REFORM OF COMMUNITY PLANNING	7
<i>Christie Commission and other reports</i>	7
<i>National Community Planning Group and the Statement of Ambition</i>	8
PROPOSALS IN PART 2 OF THE BILL	8
<i>Defining community planning</i>	8
<i>Local outcomes improvement plan</i>	9
<i>Participation of community bodies</i>	9
<i>Duties on CPP partners, governance</i>	10
FINANCIAL IMPLICATIONS	10
PART 3: PARTICIPATION REQUESTS	11
BACKGROUND	11
DEFINITIONS.....	11
PARTICIPATION REQUESTS – PROCESS	12
FINANCIAL IMPLICATIONS	12
PART 4: COMMUNITY RIGHT TO BUY	13
INTRODUCTION	13
NATURE OF LAND IN WHICH INTEREST MAY BE REGISTERED	14
MEANING OF COMMUNITY	14
SECTIONS 29 – 47	15
COMMUNITY RIGHT TO BUY ABANDONED AND NEGLECTED LAND	17
FINANCIAL IMPLICATIONS	20
PART 5: ASSET TRANSFER REQUESTS	21
BACKGROUND	21
DEFINITIONS.....	21
ASSET TRANSFER REQUESTS – PROCESS.....	21
FINANCIAL IMPLICATIONS	22
PART 6: COMMON GOOD PROPERTY	23
BACKGROUND	23
THE BILL	24
ISSUES	25
FINANCIAL IMPLICATIONS	26
PART 7: ALLOTMENTS	26
BACKGROUND	26
CURRENT FRAMEWORK	27
PROPOSALS IN PART 7 OF THE BILL	27
<i>Definitions</i>	27
<i>Provision of allotments and maintenance of waiting lists</i>	27
<i>Allotment regulations, disposal, strategy and reporting</i>	28
<i>Management of allotments and the rights of tenants</i>	28
FINANCIAL IMPLICATIONS	29

PART 8: NON-DOMESTIC RATES	29
SOURCES	30
RELATED BRIEFINGS	36

EXECUTIVE SUMMARY

The Community Empowerment Bill was introduced in June 2014. The Bill is the result of a number of consultations and other preparatory work, and is set within the Scottish Government's wider programme of public service reform.

According to the Government, the Bill "reflects the policy principles of subsidiarity, community empowerment and improving outcomes and provides a framework which will empower community bodies through the ownership of land and buildings and strengthening their voices in the decisions that matter to them; and support an increase in the pace and scale of public service reform by cementing the focus on achieving outcomes and improving the process of community planning."

Part 1 aims to provide a statutory basis for the use of "National Outcomes".

Part 2 contains a number of reforms to the system of community planning.

Part 3 provides for a process to allow community bodies to become involved in delivery of public services.

Part 4 makes a range of changes to the community right to buy land.

Part 5 provides for a process to allow community bodies to take on assets from the public sector.

Part 6 makes a number of reforms to the system of common good.

Part 7 is concerned with allotments.

Part 8 allows local authorities to set their own reliefs for business rates.

This briefing examines each part of the bill in turn, and looks at the financial implications, and sustainable development issues.

BACKGROUND AND POLICY CONTEXT

THE BILL AND THIS BRIEFING

The [Community Empowerment \(Scotland\) Bill](#) (“the Bill”) was introduced in the Scottish Parliament on 11 June 2014. The Parliament has agreed to designate the Local Government and Regeneration Committee (“LGR Committee”) as the lead committee on the Bill.

[The Explanatory Notes](#) that accompany the Bill state that:

“The Bill reflects the policy principles of subsidiarity, community empowerment and improving outcomes and provides a framework which will:

- empower community bodies through the ownership of land and buildings and strengthening their voices in the decisions that matter to them; and
- support an increase in the pace and scale of public service reform by cementing the focus on achieving outcomes and improving the process of community planning.”

The concept of a Community Empowerment Bill (then called a “Community Empowerment and Renewal Bill”) was first introduced in the [SNP’s 2011 Scottish election manifesto](#) (SNP 2011). In June 2012, the Scottish Government launched [an exploratory consultation on the proposed Community Empowerment and Renewal Bill](#) (Scottish Government 2012b), to which a total of 447 responses were received (referred to as “the 2012 consultation” in this briefing).

This exploratory consultation, and [the analysis of consultation responses](#) (Scottish Government 2012c) then informed [a further consultation in November 2013](#) (Scottish Government 2013a). A total of 424 responses were received in response to this consultation and another [analysis of the consultation responses](#) (Scottish Government 2014b) was prepared (referred to as “the 2013 consultation” in this Briefing).

The Bill is part of a wider programme of public service reform in Scotland, which was started by the [Christie Commission’s Report on future delivery of public services in Scotland](#) (Scottish Government 2011) (“the Christie Commission report”), and includes many elements of reform that have been brought about through other pieces of legislation and through non-legislative change.

This Briefing is intended to help inform Parliamentary scrutiny of the Bill at Stage 1, by summarising and analysing the key provisions in the Bill, and the potential financial impact of the Bill.

LOCAL GOVERNMENT AND REGENERATION COMMITTEE SCRUTINY

The LGR Committee considered and agreed its initial approach to the Bill on 25 June 2014. It launched [a general call for written evidence](#) (LGR Committee 2014a), and the Convener of [the Committee wrote to the Minister for Local Government and Planning](#) (LGR Committee 2014c), setting out a number of questions and requests for clarification on the Policy Memorandum (PM), stating that:

“The Committee notes that paragraph 28 of the PM states a concern ‘people might have difficulty in understanding the language of the draft legislation’. The elaboration sought in this letter is, in part, to address this concern and make it easier for those who want to participate in the legislative process and provide comment on the provisions to do so.”

The Government [responded to the Committee's questions on 1 August](#) (LGR Committee 2014d) (referred to in this briefing as "the Government's letter of 1 August"). In his cover letter, the Minister for Local Government and Planning responded to the Committee's general point about the brevity of the Policy Memorandum:

"We recognise the issue you raise about making it easier for stakeholders to provide comment on the draft provisions and welcome the opportunity to provide clarification. One of the concerns raised to us through our extensive engagement with stakeholders was that people can be put off by lengthy documents with a great deal of detail. We aimed, therefore, in the Policy Memorandum to provide a succinct and broad overview of the policy underlying the Bill as a whole and each Part individually."

The Committee's call for written evidence closed on 5 September 2014, and 157 submissions were received. SPICe will prepare analysis of the submissions separately to this Briefing. The analysis will be made available to the Committee and published in late September.

The Committee intends to take oral evidence from stakeholders and those with an interest in the Bill over the period September to November 2014, including visits and external committee meetings outside of Edinburgh. Full details are available on [the Committee's website](#) (LGR Committee 2014b).

PART 1: NATIONAL OUTCOMES

In 2007, the Scottish Government introduced a new outcomes-based National Performance Framework (NPF). In June 2008, the Government launched Scotland Performs, a website designed to present information on how Scotland is performing against the range of indicators outlined in the NPF. Detail on how the NPF works, its structure, and individual targets and indicators can be found on the [Scotland Performs website](#) (Scottish Government 2014e) and in a [2012 SPICe Briefing](#) (Campbell 2012).

Part 1 of the Bill places a duty on Scottish Ministers to develop, consult on and publish a set of National Outcomes for Scotland, which must be reviewed at least once every five years. The Bill also provides that Scottish Ministers must publish regular reports on progress on the National Outcomes, although does not specify a timescale for these reports. The Bill does not provide for a specific consultation with the Parliament, although in the 1 August letter, the Government stated that the Parliament will be able to use the published information referred to above to hold Ministers to account (LGR Committee 2014d).

The Bill does not prescribe what the National Outcomes should be, nor the structure of any future NPF, leaving decisions on these matters to future governments. There was a high degree of support for this proposal in the Government's second consultation. The proposal was also welcomed in the Finance Committee's [final report on the 2014-15 Draft Budget](#) (Finance Committee 2013).

The Financial Memorandum (FM) states that Part 1 will impose minor costs on the Scottish Government, but that these will be met from existing resources.

PART 2: COMMUNITY PLANNING

CURRENT FRAMEWORK

Community planning was established in legislation by [Part 2 of the Local Government in Scotland Act 2003](#) (“the 2003 Local Government Act”). This placed a duty on local authorities to initiate, maintain and facilitate a process by which public services are planned and provided in the local authority area. “Core partners” are under a duty to participate in the process. There was no statutory requirement to establish Community Planning Partnerships (CPPs), although it was an expectation in [supporting statutory guidance](#) (Scottish Executive 2004). At present there are 32 CPPs in Scotland, one for each local authority area.

Part 2 of the Bill proposes a number of reforms to the system of community planning. This briefing first looks at the wider reform of community planning that has been underway since the Christie Commission reported in 2011.

REFORM OF COMMUNITY PLANNING

Christie Commission and other reports

A range of reports in the last few years criticised of the development of community planning since its introduction in 2003, especially in terms of the impact on, and involvement of, local communities. In June 2011, the Christie Commission published its final report (Scottish Government 2011) on the future delivery of public services in Scotland. The report stated that:

“The Commission heard a consistent view that the potential benefits of a local partnership approach are far from being fully realised; that there are significant variations in the effectiveness of community planning partnerships; and that, for the most part, the process of community planning has focussed on the relationships between organisations, rather than with communities.”

In March 2013, Audit Scotland published a report on [Improving Community Planning in Scotland](#) (Audit Scotland 2013), which concluded that:

“Partnership working is now generally well established and many examples of joint working are making a difference for specific communities and groups across Scotland. But overall, and ten years after community planning was given a statutory basis, CPPs are not able to show that they have had a significant impact in delivering improved outcomes across Scotland.

Our audit work in recent years has found shortcomings in how CPPs have performed. These are widespread and go beyond individual CPPs. Community planning was intended as an effective vehicle for public bodies to work together improve local services and make best use of scarce public money and other resources. Barriers have stood in the way of this happening. All community planning partners needs to work together to overcome the barriers that have stood in the way of this happening. For example, shifting the perception that community planning is a council-driven exercise, and not a core part of the day job for other partners.”

The Local Government and Regeneration Committee has returned to the topic of community planning regularly in Session 4, most notably in its [2013 report on Public Services Reform](#) (LGR Committee 2013), which concluded that:

“... we share the view of the AC/AGS that 10 years of community planning has yielded little significant evidence of major improvements in public services. Like the AC/AGS, we also found major differences in perceptions about CPPs in terms of their impacts, outcomes, rates of progress, and above all levels of community engagement. We also note that this lack of progress has had its greatest impact on some of the most disadvantaged communities in Scotland.”

National Community Planning Group and the Statement of Ambition

In response to the Christie Commission report, the Scottish Government undertook a review of community planning. Following that review, the Scottish Government and the Convention of Scottish Local Authorities (COSLA) published a [Statement of Ambition](#) (Scottish Government 2012a), which sets out how CPPs should drive public service reform at local level. The Government also established a National Community Planning Group, which was chaired by Pat Watters, former President of COSLA.

Details about the group and its membership are available on the [Government's Community Planning webpages](#) (2014a). Annex A to the Government's letter of 1 August sets out a summary of the Group's work and the development of community planning since 2012. This includes work on joint resourcing, prevention, community engagement and co-production. The Government goes on to describe the “broad programme of reform” that is taking place without the need for legislative action. But, it states that legislative reform is required in certain areas.

PROPOSALS IN PART 2 OF THE BILL

The proposals in this Part of the Bill replace the equivalent provisions in Part 2 of the 2003 Act. Part 2 of the Bill provides a statutory basis for CPPs, so that “community planning is the process by which public bodies work together and with community bodies to plan for, resource and provide services which improve local outcomes in the local authority area.” (Policy Memorandum)

Defining community planning

Section 4 defines community planning as “planning that is carried out with a view to improving the achievement of outcomes in relation to the area of the local authority resulting from, or contributed by, the provision of services delivered by or on behalf of the local authority or the persons listed in schedule 1.” These outcomes must be consistent with the National Outcomes set out by Scottish Ministers. Schedule 1 lists all of the bodies considered to be “community planning partners”, which consists of:

- colleges
- the police
- health boards
- enterprise agencies
- integration joint boards, established by the Public Bodies (Joint Working) (Scotland) Act 2014
- National Park authorities
- regional strategic bodies on further and higher education

- Scottish Environment Protection Agency
- fire service, Scottish Natural Heritage
- Scottish Sports Council
- Skills Development Scotland
- Regional Transport Partnerships
- Visit Scotland.

This is a wider range of public bodies than set out in the 2003 Act.

Putting community planning on a statutory basis, and requiring participation from all partners, not just local authorities, has long been considered a way in which community planning could be improved. In its report on public service reform, the LGR Committee commented that:

“COSLA argued in its written submission and in oral evidence that an overall statutory duty on other public sector partners to participate in community planning would strengthen the ability to deliver public services in new ways, through greater partnership working. COSLA called this a “paradigm shift”. We consider this term to be misguided. We do not believe that a proposed statutory duty will be enough in itself to ensure that all public bodies participate effectively in community planning, and deliver the public services communities want to see.” (LGR Committee 2013)

But, in general there appeared to be support for this proposal in responses to the Government’s 2013 consultation (Scottish Government 2014b). Concerns were expressed on issues such as how both the outcomes and the priority of those outcomes would be decided upon within CPPs, with respondents suggesting local authorities would continue to play the key role. Others were concerned that the process would still be “top-down” and would still not give the community much say in determining outcomes.

Local outcomes improvement plan

Sections 5, 6 and 7 are concerned with the local outcomes improvement plan, defined as: a plan setting out each local outcome to which the community planning partnership is to give priority with a view to improving the achievement of the outcome, a description of the proposed improvement in the achievement of the outcome, and the period within which the proposed improvement is to be achieved.

The plan must be reviewed “from time to time”, and the CPP must publish an annual report on its progress towards achieving its stated outcomes.

The Policy Memorandum confirms that local outcomes improvement plans are the equivalent of Single Outcome Agreements, currently used by all CPPs. But, it does not explain why new terminology has been used in the Bill.

Participation of community bodies

As well as public bodies, the Bill requires that CPPs must “make all reasonable efforts to secure the participation” of those community bodies it considers are “likely to be able to contribute to community planning”. In its letter of 1 August, the Government confirmed that this provision:

“does not prescribe a process which CPPs should adopt for engaging with community bodies. These are decisions for CPPs and partner bodies to take locally, as they are

best placed to determine which approach is most suitable for the particular circumstances of each occasion.” (LGR Committee 2014c)

There is also specific provision for community bodies to be consulted in preparation of the local outcomes improvement plan. Again, the Bill and accompanying documents are not prescriptive about which bodies should be consulted.

The involvement of communities and community bodies in the process of community planning has been a key thread running through the work of the Local Government and Regeneration Committee in Session 4 in its work on public service reform and on regeneration. In its report on Strand 3 of its public service reform inquiry, the Committee stated that:

“We have not found evidence that successes are being collated and replicated systematically. We have found some apparent contradictions amongst our witnesses, especially in terms of perceptions on the rate, scale, nature, direction and levels of community engagement in decisions on PSR, particularly within and across CPPs. Ten years on, there is a consensus that insufficient progress has been made by CPPs.

We found varying degrees of community engagement in partnerships generally, and CPPs in particular. We emphasise that there are also significant differences in perception about the levels and effectiveness of community engagement.” (LGR Committee 2013)

Similarly, concerns were also raised in responses to the Government’s 2013 consultation (Scottish Government 2014b) that providing statutory underpinning could actually marginalise communities even further, as it would reinforce the public sector partners as principal partners, and others as less important. Another dominant theme in this consultation was the need for investment in community capacity building, if all communities were to take full advantage of the opportunities in the Bill.

Duties on CPP partners, governance

The remainder of Part 2 contains a number of other provisions on community planning. Section 9 describes how partners must participate in the community planning process, including a general provision that each partner “must co-operate” with the other partners, and also specific provision on sharing resources. Each partner must contribute “such funds, staff and other resources” as required by the CPP. There is no further detail about how this will operate, and it is assumed that it is for each CPP to come to its own arrangements, based on the guidance issued under section 10.

As well as the general duty on all partners to “participate” (section 4), section 8 of the Bill (on Governance) also places specific responsibilities on a number of partners to ensure that the partnership operates efficiently and effectively. Again, limited detail on what this would involve is provided in the accompanying documentation and it appears to be for CPPs and individual partner organisations to put the legislation into practice, again following any guidance issued under section 10.

FINANCIAL IMPLICATIONS

The FM states that there will be minimal additional costs on public bodies involved in community planning, as most bodies concerned already participate in the process. Local authorities currently incur costs to organise CPPs and the FM states that the Bill does not place additional duties on them in this regard that may lead to additional costs. Beyond the administrative costs of running and participating in CPPs, the proposals in the Bill may indirectly result in significant policy and service changes. This could lead to either additional savings (if for example

efficiencies are generated) or additional costs (if, for example, many more consultations are undertaken).

PART 3: PARTICIPATION REQUESTS

Part 3 sets out how a “community participation body” can make a request to a “public service authority” to participate in a process to improve an outcome of a public service, and how the public sector should deal with these requests. Part 3 is similar in structure and intention to Part 5, on Asset Transfer Requests.

BACKGROUND

The Policy Memorandum states that:

“There is a strong history of the public sector engaging with communities across Scotland. In particular, local authorities have used a variety of engagement methods over the years and have promoted the use of tools like the National Standards for Community Engagement [...] The Scottish Government sets clear expectations that all public sector organisations must engage with communities and support their participation in setting priorities and in the design and delivery of services.”

However, evidence presented by the LGR Committee, Audit Scotland and others would suggest that the level of meaningful public engagement by local authorities and CPPs varies widely across Scotland and while there have been successes, in many areas there has been a lack of progress (LGR Committee 2013).

The Policy Memorandum goes on to state that Part 3 of the Bill is not intended to replace current engagement activity by CPPs but is intended to “give community bodies an additional power to initiate that dialogue on their own terms, and a right to have their views properly considered.”

DEFINITIONS

For the purposes of this part, the Bill provides specific definitions for both the community and public sector bodies involved.

A “**community controlled body**” can be a corporate body or unincorporated, but must have a written constitution that:

- defines the community to which the body relates,
- includes membership rules which ensure the body is open to and controlled by the community,
- sets out its purpose, which must include promotion of a benefit for its community, and
- provides that any surplus funds or assets are to be used for the benefit of its community.

However, the term “community” is not defined in the Bill. The Explanatory Notes confirm that the community could be based on geography, interest or shared characteristics.

A “**community participation body**” is a body that can make a “participation request”. It can be either a community controlled body, a community council, or a body classed as a community participation body by the Scottish Ministers by order.

Finally, schedule 2 of the Bill lists the bodies to which a participation request can be made, known as “**public service authorities**”. These are bodies which are involved in providing or supporting public services. So, while local authorities, health boards, the police, etc. are included, bodies like advisory boards are not.

PARTICIPATION REQUESTS – PROCESS

The process for participation requests is set out below.

Participation Requests Process

The process for participation requests is set out in sections 17 to 25 of the Bill. In summary, the process will run as follows:

- 1 When a community participation body (or more than one body jointly) believes it can improve the outcome of a public service, it can make a participation request to the body (or bodies) that run that service.
- 2 In doing so, the community participation body will need to set out the outcomes it expects to achieve and its experience of the public service.
- 3 It is then for the public service authority to make a decision on whether to agree to the request – but the authority must agree to the request unless there are reasonable grounds not to do so.
- 4 Following a decision agreeing to the request, the public service authority must issue a decision notice outlining how the outcome improvement process will work.

The Bill does not define what the “reasonable grounds” are to refuse a request, although section 22 sets out that if a similar request has been made in the past two years it can be refused. In its letter of 1 August, the Government states that it is “difficult to outline at this stage” what such grounds for refusal might be, and that “It is appropriate to allow public service authorities a degree of discretion, and they will need to explain the grounds for any refusal.” Respondents to the Government’s 2013 consultation highlighted this provision as potentially giving local authorities too much leeway to reject any request (Scottish Government 2014b).

Although not set out in the Bill, the Policy Memorandum indicates that a participation request could be used by community bodies to “discuss with service providers how they could better meet the needs of users” instead of actually taking over, or being involved in delivery of the service.

Section 19 of the Bill requires local authorities to consider whether the participation request is likely to promote or improve economic development, regeneration, public health, social wellbeing or environmental wellbeing, although it does not require them to consider all of these issues in the round, by considering any trade-offs or unintended consequences.

FINANCIAL IMPLICATIONS

The FM states that while there are likely to be costs for public service authorities in responding to participation requests, it is unable to assess the financial impact of this Part of the Bill, as:

“the costs will depend on how often community participation bodies use the provisions and at this stage it is difficult to forecast use across Scotland. The Bill explicitly allows public service authorities to invite community bodies to join existing processes, therefore limiting the need for additional costs.”

Although there are uncertainties associated with potential usage of this new provision, an FM would be expected to set out a range of possible scenarios with associated costings even when uncertainties exist. The FM does include an example of local authority costs associated with community engagement, which could act as a proxy for costs of a participation request. Depending on the circumstances of the consultation it might cost between £1,000 and £41,000 for a consultation (mostly staff costs). However, it has not been possible to scale this up given the wide range of possible scenarios involved.

PART 4: COMMUNITY RIGHT TO BUY

INTRODUCTION

Part 4 of the Bill proposes a number of amendments and additions to the [Land Reform \(Scotland\) Act 2003](#) (“the 2003 Land Reform Act”). The Explanatory Notes state:

“Part 2 of the 2003 Act provides bodies representing rural communities with rights to register an interest in land with which the community has a connection. These bodies have a right to purchase that land if the owner is willing to sell it. Part 2 of the 2003 [Land Reform] Act sets out the land in respect of which an interest can be registered, and the procedure for registering an interest. It also sets out the circumstances in which the right to buy the land in respect of which an interest is registered arises and the procedures for exercising it (including procedures for valuation of the land, for appeals and for compensation).”

To date, 16 communities have purchased 21,004 hectares of land under Part 2 of the 2003 Land Reform Act (Scottish Government 2014d). The Registers of Scotland maintains the [Register of Community Interests in Land](#) (ROS 2014), and this shows that there are currently 171 Community Bodies with an interest in local assets across Scotland.

Post legislative scrutiny of the 2003 Land Reform Act, a summary of evidence, and a recent review into options for further land reform has informed the development of the Bill.

The Centre for Mountain Studies at Perth College UHI undertook [Research on the Implementation of the Land Reform \(Scotland\) Act 2003](#), commissioned by the Scottish Parliament’s Rural Affairs and Environment Committee (2010a), the [Executive Summary](#) (Scottish Parliament Rural Affairs and Environment Committee 2010b) highlighted the legislation’s complex and resource-intensive administrative requirements, and noted that:

“Specific issues were raised concerning access to the electoral register, community body definitions, ballot turnout requirements and the definition of “community”. “Late” registrations are seen as a key “emergency” tool by community groups, and the majority of successful purchases to date have been “late”.”

The Scottish Government (2012d) published an [Overview of Evidence on Land Reform](#) which found that Lowland Scotland is an important area for community ownership, and community purchase should not solely be associated with the Highlands and Islands. It also found that the areas of land purchased have generally been small, often constituting specific facilities and/or buildings rather than larger land areas and estates; furthermore:

“...not all communities are equally well placed to achieve the full benefits of land and asset ownership. In addition, without the right conditions in place, ownership can bring with it more risks than benefits.”

The Scottish Government announced the establishment of an independent Land Reform Review Group (LRRG) in July 2012, with a broad remit to:

- Enable more people in rural and urban Scotland to have a stake in the ownership, governance, management and use of land, which will lead to a greater diversity of land ownership, and ownership types, in Scotland;
- Assist with the acquisition and management of land (and also land assets) by communities, to make stronger, more resilient, and independent communities which have an even greater stake in their development;
- Generate, support, promote, and deliver new relationships between land, people, economy and environment in Scotland.

The [Final Report](#) (Scottish Government 2014c) contains over 60 key recommendations and states that:

“It reflects the importance of land as a finite resource, and explores how the arrangements governing the possession and use of land facilitate or inhibit progress towards achieving a Scotland which is economically successful, socially just and environmentally sustainable.”

NATURE OF LAND IN WHICH INTEREST MAY BE REGISTERED

At present the right to buy provisions in Part 2 of the 2003 Land Reform Act (and secondary legislation¹) apply only to community bodies representing rural areas (i.e. with a population of less than 10,000). **Section 27** of the Bill amends the definition of “registrable land” and the power of the Scottish Ministers to define “excluded land”, so that the community right to buy applies across Scotland. The majority (93%) of those who responded to this proposal in the 2013 Consultation (Scottish Government 2014b) agreed.

MEANING OF COMMUNITY

Section 34 of the 2003 Land Reform Act provides that the only type of legal entity that can apply to register a community interest in land is a company limited by guarantee. It also provides for the use of postcode units in order to define the community that a Community Body (CB) can represent. **Section 28** of the Bill extends the types of body which may be CBs under Part 2 of the 2003 Act to include Scottish Charitable Incorporated Organisations (SCIOs) and any other type of body which Ministers specify in regulations; this is subject to certain provisions, e.g. that the SCIO must have not fewer than 20 members, that the majority must be members of the community, and that provision must be made for proper financial management. This section also gives Ministers a power to make regulations which prescribe other types of area by which a community may define itself. So, in summary, according to the Policy Memorandum, the bill makes it easier for communities to define themselves in a greater variety of ways than by postcode.

Of those who responded to the 2013 consultation’s proposals (Scottish Government 2014b), 81% agreed that other legal entities in addition to the company limited by guarantee should be

¹ Community Right to Buy (Definition of Excluded Land) (Scotland) Order 2009.

able to apply to use the community right to buy provisions. The main arguments against were that other bodies may not provide community protection and could lead to personal liability for their members.

Regarding more flexibility in the way that a community is defined, a broad range of opinions were expressed, including specific support for the use of settlements and settlement areas. The consultation states:

“It was commonly acknowledged that communities vary considerably and so flexibility in how they define themselves is sensible. However, in practical terms, the community will require to be balloted in order to exercise their right to buy and this may be a consideration in decisions on definition.”

Furthermore:

“The most common view expressed [...] was that communities should be able to define themselves according to interest in addition to place. A multitude of examples was provided, a selection being: arts organisations; people with disabilities; fishing interest groups; railway preservation groups; ex-soldiers; wildlife preservation association; language group; ethnic group; people with mental health problems; church; and users of allotments.”

SECTIONS 29 – 47

The Government’s letter of 1 August states that sections 29 to 47 of the Bill make a number of changes to “the detailed procedures and requirements of the community right to buy process, including streamlining and increasing flexibility”; these sections are summarised below.

Section 29 extends the restriction on CBs modifying their memorandum or articles of association without Ministers’ consent from when they hold a registered interest, or own land to the period prior to registration.

Section 30 inserts a subsection that precludes Ministers considering any community support that is dated earlier than 6 months before the date an application to register a community interest in land is received.

Section 31 is lengthy, and relates to the procedure for late applications; the Policy Memorandum states that it replaces “the “good reasons” test for “late” applications with one which sets out clear requirements to be met by community bodies when submitting a “late” application”.

An application is deemed to be “late” when it is received by Ministers after the owner of the land has taken action to transfer the land but before missives are concluded, or an option to acquire is granted. Key amendments include:

- Allowing Ministers to request further information from the current owner to allow a decision on whether an application is “late”.
- Where further information is requested, extending the time that Ministers have to make a decision on whether an application is “late” from 30 days to 44 days.
- Removing the requirement to show “good reasons” for not submitting an application before land came on the market and replacing it with a requirement that such relevant work as Ministers consider reasonable was carried out by a person, or such relevant

steps as Ministers consider reasonable were taken by a person; relevant work and relevant steps are defined.

- Allowing Ministers to request further information from any relevant party within the relevant timescale.

The 2013 Consultation (Scottish Government 2014b) asked whether “communities should be able to apply to register an interest in land in cases where land unexpectedly comes on the market and they have not considered using the community right to buy”. If so, “what changes should be made”? Of those who responded, 88% agreed that there should be a process for “late” applications, and a variety of comments and recommendations were made, including:

- The interests of the landlord and wider commercial bodies should be taken into account in addition to those of the community.
- Late applications should be avoided as far as possible by ensuring communities have information about future sales wherever possible.
- In urban areas in particular the process could become very complex with many late registrations and different community bodies in competition.

Sections 32 - 35 relate to evidence and notification of concluded missives or option agreements, and notifying Ministers of certain changes.

The 2003 Land Reform Act provides (section 51(2)(a)) that at least half of the members of the community must have voted or, if half of the members have not voted, the proportion which voted is sufficient in the circumstances to justify the community body buying the land. **Section 36** of the Bill removes the reference to at least half of the members of the community voting and provides that the requirement is met if the proportion of the members of the community who voted is sufficient to justify the community body proceeding to buy the land. The 2013 Consultation (Scottish Government 2014b) shows that, of those who responded, 89% were of the view that “the ballot result should focus on a sufficient amount of support to justify the community support to proceed with the right to buy the land.”

Section 37 of the Bill inserts a new section 51A into the 2003 Land Reform Act. It provides for an independent balloter to undertake the community ballot. The Policy Memorandum states that:

“Scottish Ministers [will] arrange for this to be conducted by an independent third party, and [...] meet the cost of this, making the community right to buy process easier for community bodies;”

Requirements on Ministers include providing the balloter with a copy of the application, and other information as prescribed in regulations. This must be done within 28 days of the valuer being appointed. The CB is also required to provide the balloter with wording for the proposition that they buy the land, together with other information as set out in regulations within seven days of receiving notification of the value of the land. The 2013 Consultation (Scottish Government 2014) showed that, of those who commented on the subject, 84% agreed that Ministers should organise and pay for the ballot.

Sections 38 – 42 relate to the provision of information and evidence relating to ballot results; Ministerial powers to review whether ballots have been properly conducted; the timescale for the conduct of the ballot; and timescale for payment by the CB.

Section 43 inserts a new subsection (1A) into section 60 of the 2003 Land Reform Act which requires the valuer to pass on any written representations about the value of the land (whether

by the landowner or the community body) to the other party and invite counter representations from that party. These views must then be considered while undertaking the valuation. It is considered that this process will increase confidence in the valuation.

The Policy Memorandum states that the Bill gives:

“Ministers discretion to allow them to recover the cost of the independent valuation from the landowner where the landowner has withdrawn the land from sale after the valuer has been appointed, thus deterring landowners from allowing the process to proceed where the land is not genuinely being offered for sale.”

Section 44 inserts a new section 60A into the 2003 Land Reform Act. It provides for certain circumstances where Ministers may require the landowner to pay the expenses of Ministers in connection with the valuation, and the 2013 Consultation (Scottish Government 2014) found that 72% of respondents agreed. Commentary accompanying these responses noted that “the situation where a landowner wishes to take the land off the market is unfortunate, but there may be exceptional circumstances which have led to this decision. It was envisaged that improvements in the valuation processes may lead to this situation becoming rare. A recurring theme was that any landowner withdrawing land at this stage should be required to pay the costs already incurred by communities.”

Sections 45 - 47 relate to rights of appeal to the sheriff; calculating certain time periods in relation to community right to buy; and the provision of information to Ministers.

COMMUNITY RIGHT TO BUY ABANDONED AND NEGLECTED LAND

The existing community right to buy under Part 2 of the 2003 Land Reform Act allows a rural community to register an interest in land at any time; however, a CB can only buy the land if the owner willingly decides to sell. As outlined above, section 27 removes the restriction on rural land and communities. The Policy Memorandum states:

“Land that is neglected or abandoned can be a barrier to the sustainable development of land. In some cases it may prevent the community from developing or improving facilities. There are also cases where derelict or neglected sites become a blight on the surrounding area, and the community could bring the land back into productive use. The Scottish Government considers that in such circumstances, where all other options fail to achieve improvement, communities should be able to acquire the land without having to wait for it to be put on the market.”

The 2013 Consultation (Scottish Government 2014b) found that 83% supported this proposal. However, some (mainly local government respondents) disagreed, believing that the issues involved are extremely complex, and it would be more effective for power to be vested in local authorities, who could work on a case-by-case basis and possibly purchase land on behalf of communities. The Consultation states:

“The prevailing view was that communities should have a compulsory power to buy neglected or abandoned land where the public benefit is clearly justifiable and where reasonable efforts had been made to contact the landlord. It was commented that this may happen in circumstances where the landlord is absent, or has gained planning permission but then failed to take the plans forward.”

Section 48 of the Bill therefore inserts a new Part 3A into the 2003 Land Reform Act to give CBs a right to acquire land in certain circumstances, without a willing seller. Where Ministers approve the application, the owner will be required to transfer the land to the CB, which will be required to pay market value for the land. The procedure for Part 3A is based on the procedure

in Part 3 of the 2003 Land Reform Act which gives crofting communities an absolute right to buy, and is not dependent on there being a willing seller. The Scottish Government ([2011](#)) states:

“Two crofting communities have submitted applications under the Crofting Community Right to Buy to purchase land in which they have an interest.

The Galson Trust on the Isle of Lewis submitted a right to buy application in 2005 but withdrew their application after negotiating an amicable agreement with their landowner.

The Pairc Trust on the Isle of Lewis submitted an application in May 2005 and revised applications in February 2010. After lengthy consideration Scottish Ministers decided, on 21 March 2011, to approve the 2010 applications submitted by The Pairc Trust, whilst rejecting their 2005 application.”

The following section summarises the provisions in the proposed **Part 3A, as inserted by section 48**.

The new **section 97B** defines “land” as including “bridges and other structures built on or over land, inland waters, canals, and the foreshore” (i.e. land between the high and low water marks of ordinary spring tides).

The new **section 97C** defines eligible land as that which is, in the opinion of Ministers, “wholly or mainly abandoned or neglected”. Factors which Ministers must have regard to when deciding whether land is eligible will be set out in regulations. Land which is not eligible includes:

- Land on which there is an individual’s home, though this can be subject to exceptions.
- Eligible croft land or croft land which is occupied or worked by its owner or members of their family.
- Certain land that is owned by the Crown.
- Land of such other descriptions that Ministers may set out in regulations.

The 2013 Consultation (Scottish Government 2014b) discusses the definition of “neglected” and “abandoned” at some length, and notes:

- In urban areas, identifying neglect may be more obvious than in rural areas, where land lying apparently unused may in reality be undergoing active stewardship.
- Land which is subject to lengthy legal disputes, inheritance issues, land-banked sites, and development planning where sites are designated for housing which has not yet commenced, present further challenges.
- In attempting to define “neglect”, the recurring view was that this is evidenced by the failure to maintain land over time, thereby reducing its value, and in some cases rendering it increasingly dangerous to the public.
- One of the main criteria for assessing abandonment should be that the owner is not traceable or has not responded to attempts to make contact.

The Policy Memorandum suggests that matters which could be considered in relation to whether land is abandoned or neglected include:

“The physical condition of the land or building; its current use (or non-use); any detrimental economic or environmental impact on the local area; and any failure by the landowner to comply with regulatory requirements. Ministers would also need to consider any environmental, planning or historic designations affecting the land or buildings, for example if there are any restrictions on its use or development relating to conservation purposes.”

The new **section 97D** outlines the requirements which must be met by a Part 3A CB to be eligible to purchase land. It also sets out that the articles of association must define the community by reference to a postcode unit (or units) and/or a type of area which Ministers set out in regulation. The community includes people who are resident in that postcode unit or in one of the postcode units or other areas set out by Ministers. In addition to being resident, members of the community must also be entitled to vote at local government elections in a polling district that encompasses that postcode unit or postcode units or the alternative areas set out by Ministers in regulations.

The new **sections 97E and F** set out certain constraints that apply to a Part 3A CB after it has acquired land; and provide for the creation of a Register of Community Interests in Abandoned or Neglected Land (Part 3A Register), which is to be kept by the Keeper of the Registers of Scotland.

The new **section 97G** relates to the process of applying to exercise the right to buy land under Part 3A, and provides that this can:

- Only be exercised by a Part 3A CB.
- Only be exercised with Ministers’ consent following a written application by the CB.
- Be exercised on multiple holdings, providing that separate applications have been made for each holding.

Further to the above, a Part 3A CB must also list in the application why they believe that their proposed purchase is in the public interest, how it is compatible with furthering the achievement of sustainable development of land, and the reasons why it considers the land to be wholly or mainly abandoned or neglected. This application must also be sent to the land owner.

On receiving the application, Ministers must invite the landowner, certain creditors and any other person that may have an interest in the application to provide written comments within 60 days. Ministers must also take reasonable steps to invite comments from owners of adjacent land. The community body must be sent copies of these invitations.

The new **section 97H** sets out various criteria for consent which Ministers must be satisfied with.

The new **section 97J** sets out the requirements for a ballot to establish that a right to buy application by a Part 3A CB has the support of its community.

Namely, that a proposal to exercise a community right to buy will be deemed to have been approved by the relevant community, if:

- The ballot takes place within the six-month period immediately preceding the date of the right to buy application.

- At least half of the community voted in the ballot or where fewer than half of the members of the community voted, the proportion that voted is sufficient to justify the community body proceeding to purchase the land.
- The majority of the votes cast were in favour of making the application.

Further requirements are also set out, including that a Part 3A CB is responsible for the expense of conducting the ballot, and that it must be conducted as set out by Ministers in regulations. These regulations should include calculating and publishing the number of eligible voters, turnout, and the number of votes cast for and against the proposition. Thereafter, the Part 3A CB has 21 days to notify Ministers of the result (in some circumstances this can be included with the application).

The new **sections 97K - R** relate to detailed procedural matters e.g. where there is more than one Part 3A CB interested in buying the same land; Ministers giving written notice of their decision to consent or refuse an application; CBs confirming their intentions with Ministers, and other conveyancing practicalities.

The new **section 97S** sets out the procedure for valuation of the land that a Part 3A CB wants to buy. In summary, Ministers must appoint and pay for a qualified, independent, knowledgeable and experienced valuer within seven days, who will assess the market value of the land at that point, as well as take into account the views of the Part 3A CB and owner. This must be done within eight weeks of being appointed (unless Ministers specify otherwise).

Market value is defined as the sum of the open market value if the sale were between a willing seller and willing buyer, compensation for any depreciation in the value of other land, and interests belonging to the seller as a result of the forced sale, and compensation for any disturbance to the seller resulting from the forced sale. In deciding the value of the land, the valuer may take account of the known existence of other potential purchasers with a special interest in the property.

The new **sections 97T and U** are consequential to the main policy in section 97S, and relate to further regulations setting out amounts of compensation payable, who is liable, and how this may be claimed. Also, that that Ministers may, in certain restricted circumstances, pay a grant to a Part 3A CB to assist it in meeting the compensation it is required to pay. Ministers are however not bound to pay a grant even when all the circumstances specified arise.

The new **sections 97V, 97W, and 97X** set out the rights of appeal to the sheriff and Lands Tribunal, and the right of reference to the Lands Tribunal in relation to decisions made by Ministers; valuations; and questions relating to Part 3A applications. **Section 97Y** does not prevent parties to a Part 3A application from settling or agreeing on a matter which is subject to an appeal under sections 97V or 97W between them. The new **section 97Z** clarifies some matters of interpretation.

FINANCIAL IMPLICATIONS

The FM states that it does not anticipate that modifications to Part 2 of the 2003 Land Reform Act (sections 27 to 47), or the new Part 3A (section 48) “should impose any significant additional costs on the Scottish Government. [...] All additional costs would be met from existing resources.”

In terms of communities and landowners, the FM states that there is a “large degree of uncertainty on the level of costs” that might be incurred, as it will be up to individual bodies how

to use and respond to the provisions. It would appear, that for both aspects of Part 4, that legal costs arising from appeals will be the largest area of potential cost for communities and landowners. However, the FM does not provide a range of costs, as would be expected. There may also be costs for community bodies in preparing bids and developing proposals. At present there are various funding schemes that communities can apply to, but an increase in applications could put pressure on these funds.

PART 5: ASSET TRANSFER REQUESTS

Part 5 sets out how a “community transfer body” can request to buy, lease, manage, occupy or use land or buildings belonging to a “relevant authority”, and how the authority is to deal with such requests. Part 5 is similar in structure and intention to Part 3, on Participation Requests.

BACKGROUND

At present, a number of local authorities have established asset transfer schemes to allow communities to take control of assets within their area. The Government also funds the Community Ownership Support Service, which provides advice and support on the asset transfer process. However, there is not a uniform approach across Scotland, and the process is often unclear. The Policy Memorandum welcomes the existence of current schemes but states that:

“The Bill goes further, giving the initiative to communities to identify property they are interested in, and placing a duty on public authorities to agree to the request unless they can show reasonable grounds for refusal.”

The Policy Memorandum also highlights that the intention is not for the focus of asset transfer requests to necessarily be on buildings and land considered surplus to the public sector’s requirements, but on “what the community seeks to achieve and what property would help them achieve that.”

DEFINITIONS

As with Part 3, Part 5 begins with a series of definitions of the different bodies involved in the asset transfer request process.

A “**community transfer body**” is either a “community controlled body” (as defined in Part 3, section 14) or another body (or class of bodies) designated as such by an Order made by Scottish Ministers.

Schedule 3 of the Bill lists those bodies to which an asset transfer request can be made, known as “**relevant authorities**”. There is also an order-making power that enables Scottish Ministers to designate other bodies (or classes of bodies) as such. The list of bodies in schedule 3 is wider than that for schedule 2, and includes bodies like the Scottish Court Service, Crofting Commission, the British Waterways Board alongside local authorities, health boards, police and fire authorities etc.

ASSET TRANSFER REQUESTS – PROCESS

The process for asset transfer requests is set out in the figure below.



The process for asset transfer requests is set out in sections 52 to 62 of the Bill. In summary, the process will run as follows:

- 1 Community transfer bodies can approach a relevant authority for detailed information about the property they are interested in, before making a formal request. What this information can be will be set out in secondary legislation.
- 2 Once an asset transfer request is made, the relevant authority must assess the proposals, and take a decision based on the economic, social and environmental benefits and any other relevant factors, including the function and purpose of the authority.
- 3 As with participation requests, the presumption in the Bill is that it must be agreed to, unless there are reasonable grounds for refusal. Although, as with part 3, what these grounds might be is unclear at this point.
- 4 There is an appeals mechanism to the Scottish Ministers for decisions concerning all authorities other than Scottish Ministers and local authorities. Local authorities are expected to make their own arrangements for appeals. There appears to be no mechanism of appeal against a decision by the Scottish Ministers.

FINANCIAL IMPLICATIONS

Similarly to the section of the FM concerning Part 3 of the Bill, the Government is unable to accurately assess the costs of the provisions on asset transfer requests. Much of the detail of procedure for Part 5 will be set out in regulations, and the FM states that “The costs of these provisions will depend on the arrangements put in place and any additional costs would be met from existing resources.” In terms of relevant authorities, the FM states that:

“During the consultation on the Bill local authorities were not able to provide monetary estimates for any costs or savings that may arise as a result of the Bill. This in part reflects the difficulty in predicting how many requests will be made, the wide variety in the types of request that could be made, for example from the use of a small patch of derelict land to the purchase of a large community centre, and the complexity in predicting savings associated with better service provision.”

There are also potential costs on community transfer bodies, but again the FM does not provide any estimates, although it does set out some examples at paragraphs 81 and 82, stating that:

“The Bill will require a community body making a request to outline the public benefit that would follow from a transfer. Details of what is to be included in a request will be set out in regulations. These are yet to be drafted, but it is expected that they will include the need to demonstrate that any transfer would be financially sustainable in the long term, providing confidence that the proposed benefits can realistically be achieved.

It is not possible to accurately predict the cost for individual community bodies that may arise over the next few years as it will be dependent on the type, value and condition of the asset the community body is seeking to own, lease or manage. In addition there will be other costs such as refurbishment or re-development costs, administrative costs, legal fees and specialist advice that will vary from case to case.”

However, the Scottish Government's [Guidance on Financial Memoranda](#) (Scottish Government 2009) states that: "Costings should not be omitted because final decisions have still to be made. Where this is the case a range of costs should be provided reflecting the possible options."

PART 6: COMMON GOOD PROPERTY

BACKGROUND

The concept of "common good" property has its origins in the Middle Ages where local communities used areas of land/property for communal purposes (Ferguson 2006; Ferguson 2013). In time such property and other assets became part of the Scottish burghs² where it was administered on behalf of local inhabitants (Ferguson 2013).

The Local Government (Scotland) Act 1973 (1973 Act) brought an end to the burgh system in 1975 by abolishing the town councils which had responsibility for the burghs. Their common good assets were, however, transferred to the new district or islands councils and then, in 1996, to the current unitary local authorities (Local Government etc. (Scotland) Act 1994 (1994 Act)) Common good property is, therefore, limited to those assets held by the burghs at the time of their abolition. No new common good property can now be created.

The Policy Memorandum indicates that common good property includes, "both moveable items (furniture, paintings, regalia etc.) and heritable ones (land and buildings), as well as cash funds which may have been derived from the use or sale of common good property". Heritable property is the largest component and mainly includes public buildings and public spaces such as parks. According to the Scottish Government, the combined value of local authority common good funds was over £300 million in 2012 (Scottish Government 2014c). This is, however, likely to be an underestimate since a full audit of all common good property held by local authorities has not yet taken place (Scottish Government 2014c).

In very simple terms common good property can be thought of as a special form of property which has a public purpose, where title is held by a local authority for the 'common good' of the people of the area in question. However, the governing framework is complex and combines elements of both statutory and case law. Specific rules exist as regards:

- **The administration of common good property** – section 15(4) of the 1994 Act specifically requires local authorities to administer common good property with regard to the interests of the inhabitants of the area to which the common good related³.
- **The definition of common good property** – there is no statutory definition; instead the general rule, based on case law,⁴ is that burgh property will normally be regarded as common good property unless it has been acquired for a specific statutory purpose (e.g. under housing legislation) or held under a special trust (Ferguson 2013; Scottish Government).
- **Alienable and inalienable common good property** – there are complex common law⁵ rules from the 19th century⁶ which are still relevant in establishing whether common good property can be considered to be "alienable" for the purposes of the 1973 Act – i.e. able

² Burghs are a historic form of town government

³ Aberdeen, Dundee, Edinburgh and Glasgow councils have to have regard to the interests of all the inhabitants of their areas on the basis that the previous burgh boundaries largely match the current council boundaries

⁴ Magistrates of Banff v Ruthin Castle Ltd (1944 SLT 373).

⁵ The "common law" is the traditional law formed by the decisions of judges in individual cases

⁶ Murray v Magistrates of Forfar (1893) 1 SLT 105

to be disposed of (i.e. sold/leased) or used for a different purpose – (see Ferguson 2013).

- **The disposal or appropriation of common good property** – section 75 of the 1973 Act places certain limits on local authorities disposing of common good property or appropriating it (i.e. changing its use). If no question arises as to whether common good property is alienable under the common law, it can be disposed of or appropriated under the rules in the 1973 Act. If there is a question as to whether common good property is alienable, any disposal may only take place if the Court of Session or sheriff court authorises it (see Ferguson 2013).
- **Accounting** – common good property has to be accounted for separately from a local authority's general fund (1973 Act) and specific accounting procedures exist (see LASAAC).

In recent times claims have been made that local authorities have failed to manage common good property in the interests of local inhabitants and that the current system is not fit for purpose (Wightman and Perman and Land Reform Review Group 2014). Particular issues raised include:

- lack of clarity as to the definition of common good property and alienable/inalienable common good property under the common law
- lack of clarity as to what common good property is held by local authorities due to poor record keeping and a failure to carry out audits
- lack of transparency and direct engagement with local communities about the use to which common good property is put
- failures to correctly account for common good property and, in particular, income generated by the sale of common good property
- the sale of common good property to third parties and the use of common good property for different purposes from which it was originally intended to be used.

Various legal disputes have arisen concerning common good property, notably in 2013 in the Portobello Park case which related to whether Edinburgh Council could legally build a high school on Portobello Park, which it accepted was inalienable common good land. This plan was challenged in the Court of Session which found that, although the rules in the 1973 Act allowed the courts to authorise the disposal of inalienable common good land, they did not permit local authorities to appropriate such land (i.e. to put it to another purpose).⁷ As a result, Edinburgh Council felt forced to introduce a Private Bill to the Scottish Parliament in 2013 with the aim of changing the status of the land to alienable common good property, thus allowing for a change in use (see City of Edinburgh Council 2013). The Bill received Royal Assent on 1 August 2014, thus solving the specific legal problem. Arguments have, however, been made that the case highlights the need for a general statutory provision for the appropriation of inalienable common good land (Scottish Government).

THE BILL

The Policy Memorandum explains that the aim of Part 6 of the Bill is to increase transparency:

“about the existence, use and disposal of common good assets, and to increase community involvement in decisions taken about their identification, use and disposal.” (para. 87)

⁷ [Portobello Park Action Group Association v City of Edinburgh Council \[2012\] CSIH 69](#)

In this light, the Bill requires local authorities to –

1. establish and maintain a register of common good property (sections 63 and 64);⁸ and
2. consult with community councils and other community bodies before common good property is disposed of or its use changed (sections 65 and 66)

The process envisaged in relation to these two matters is broadly similar and includes:

- **Publication**

- before establishing the common good register, local authorities must publish a list of common good properties (section 63(2))
- local authorities must also publish details about proposed disposals of common good property/changes of use before they take a decision (section 65(2))
- publication may be in such a way as the local authority may determine (sections 63(3) and 65(3))
- inclusion in the register will not determine whether property is in fact common good and that local authorities will not be expected to legally verify the status of every item (Policy Memorandum)

- **Notification to community bodies**⁹ – local authorities must notify the above publications to any community council established for the local authority area (sections 63(4) and 63(5)(a) and 65(4) and 65(5)(a)). In relation to the common good register, they must also notify “any community body of which the authority is aware”, whereas a proposed disposal/change of use should be notified to “any community body that is known by the authority to have an interest in the property” (sections 63(5)(b) and 65(5)(b))

- **Representations** – in establishing the register, or deciding whether or not to dispose of a common good property/to change its use, the local authority must have regard to representations made by the relevant community council/community bodies mentioned above and those made by other persons in respect of the list of properties/proposals in relation to disposals/change of use (sections 63(6) and 65(6))

- **Inspection/transparency** – local authorities must make arrangements to enable the public to inspect the common good register free of charge and must make it available via a website (section 63(8))

- **Guidance** – in carrying out the above duties, local authorities must have regard to guidance issued by the Scottish Ministers (sections 64 and 66)

ISSUES

A number of parties to the Scottish Government’s consultation welcomed the potential for the Bill to increase transparency about the existence, use and disposal of common good assets. However, there were also critical comments, particularly from local authorities and community councils. The main areas of criticism appear to be as follows –

- **Lack of ambition** – arguments primarily relate to the failure of the Bill to take a more holistic approach and to clarify/codify the existing law on the common good, including

⁸ The Government’s letter of 1 August (response to question 100) indicates that, although some local authorities already have such a register, there is currently no legal requirement to have one

⁹ Community body is defined in section 67 of the Bill

definitions of common good property and alienable/inalienable common good property (see SOLAR).¹⁰ Other arguments are that the Bill does not provide a solution to the issue raised in the Portobello Park case that there is currently no straightforward legal process for the appropriation of inalienable common good property (see SOLAR, the Law Society of Scotland; Renfrewshire Council) and that the Bill does not regulate common good accounting practices (see Land Reform Review Group 2014; Selkirk Regeneration Company)

- **Shortcomings in the system of common good registers** – one strand of arguments is that the system does not go far enough as it does not sufficiently define the parameters needed for a register – e.g.: the extent to which local authorities should carry out audits of common good assets; the timeframe for setting up a register; the legal status of properties on the list; specific rights of bodies to challenge the inclusion/exclusion of properties to the register etc.¹¹ (see West Dunbartonshire Council). Another strand of arguments is that the process is unlikely to work properly unless it is sufficiently resourced (Accounts Commission and Auditor General for Scotland; Hillhead Community Council)
- **Shortcomings in the consultation system** – arguments have been made that the consultation process is too weak to promote community empowerment as it merely requires local authorities to “have regard” to representations made by community bodies/community councils (potentially at a late stage in the process) and does not give them any additional rights in relation to the classification of common good property or disposals or changes of use (Land Reform Review Group 2014; Burntisland Community Council). Other arguments relate to the need for increased clarity as to the type of community bodies with which local authorities must consult (Community Land Advisory Service)

FINANCIAL IMPLICATIONS

The FM explains that the new statutory duties placed on local authorities will lead to costs. According to the Policy Memorandum, although “local authorities expressed some concern about the potential resources involved in establishing registers” in the consultation, they did not state specifically how much this might cost. The FM does not go any further in attempting to provide an indicative cost.

PART 7: ALLOTMENTS

BACKGROUND

The Scottish Government published its first National Food and Drink Policy, [Recipe for Success](#) (Scottish Government 2009b) in 2009 which included a commitment to strategically support allotments and community growing spaces. Following on from this publication, the Grow Your Own Working Group was established in 2009 and their [report](#) (Grow Your Own Working Group 2011) contained a recommendation to amend the existing legislation governing allotments. The Group specifically highlighted the need to review the duties placed on local authorities in this area.

¹⁰ For the reasons why the Scottish Government did not follow this approach see Policy Memorandum, para. 91

¹¹ The Scottish Government appears to suggest that such issues may be dealt with in ministerial guidance. See the Government’s letter of 1 August (response to question 104). See also the response to question 107 for views on appeals

In addition to two consultations on the Bill, the Scottish Government also held a separate [consultation](#) (Scottish Government 2013b) on the proposed allotments legislation in April-May 2013, which has informed the detail of the provisions in the Bill.

CURRENT FRAMEWORK

Existing allotments legislation is a complex area, particularly in relation to land owned by local authorities. The principal legislation governing allotments is the [Allotments \(Scotland\) Act 1892](#) as amended by the [Land Settlement \(Scotland\) Act 1919](#) and the Allotment (Scotland) Acts of [1922](#) and [1950](#). These acts currently detail the duty of local authorities to provide land in their local area for allotments, as well as the conditions under which this duty is placed. The legislation also allows local authorities powers to provide sufficient numbers of allotments in their area by purchasing or leasing suitable land.

Further, the 2003 Local Government Act (Part 3) creates a discretionary power which enables Local Authorities to do anything they consider is likely to promote well-being of their area and/or people.

Part 7 of the Bill proposes to repeal the existing legislation (that specifically relates to allotments) and make a new “updated, simplified and clarified” provision for allotments. The Policy Memorandum notes that this was considered to be a more straightforward approach than to seek to amend the previous legislation. The new legislation includes the restatement of existing legislation where appropriate.

PROPOSALS IN PART 7 OF THE BILL

Definitions

Sections 68 and 69 provide a definition of ‘allotment’ as well as ‘allotment site’ for the purposes of the Bill. Allotment sites had not been defined in previous legislation, and the new definition for allotments aims to reflect their current usage. Both definitions relate only to land owned or leased by the local authority as private allotments are not covered by the Bill.

While the consultations gathered responses relating to the possibility of defining a recommended size for allotment plots, this is not included in the Bill. Instead the Bill allows for the size of allotments to be set out by Scottish Ministers in regulations under section 68(d).

Provision of allotments and maintenance of waiting lists

The duties of local authorities in relation to the provision of allotments and the management of requests are detailed in sections 70-72. The Bill places an obligation on local authorities to establish and maintain a waiting list of residents who have requested to lease an allotment.

Local authorities also have a duty under the Bill to take “reasonable steps” to provide a sufficient number of allotments to ensure that waiting lists are kept below a specified target. However, the Bill does not set out any further detail on the format of the “reasonable steps.” Where a local authority already owns or leases allotments this duty is triggered when there is one person on the waiting list. Local authorities must ensure that the number of people on waiting lists is no more than half of the total number of allotments owned or leased by the local authority. For local authorities who do not own or lease any allotments at the point of commencement, this section comes into force once there are 15 individuals on the waiting list.

The 2014 consultation included 3 potential options for keeping waiting lists below a set target. The option included in the Bill (which ensures that the duty comes into play when there is a

demonstrable, clear and consistent demand) was the least favoured by respondents (13% preferred this option). The most favoured option (45% of respondents) allowed for the waiting list target used in the Bill to also include a time limit of no more than 3 years in length. The supporting documents do not state the reasons why the Scottish Government chose the target that was included in the Bill.

Allotment regulations, disposal, strategy and reporting

Sections 73-79 look at the duties of local authorities in respect of running, maintaining and reporting on their allotment sites. This includes details regarding:

- An obligation to ensure that regulations for allotment sites in their area are in place. The Bill lists the areas that the regulations must make provision for, including rent, maintenance and other matters that the regulations may make provision for, including allowable structures. It also allows for regulations to differ between allotment sites to take into account local circumstances.
- The processes for creating and amending these regulations.
- Procedures for the disposal of allotments and allotment sites which cannot take place without the consent of Scottish Ministers.
- Proposals to ensure that every local authority prepares a food-growing strategy, identifying land that can be used for producing food and making clear how future provision of allotments and allotment sites will be met. This strategy would need to be reviewed every 5 years.
- A requirement to produce and electronically publish an annual allotments report, including waiting list numbers, and the steps taken by the local authority to comply with the duty to provide sufficient numbers of allotments and allotment sites.

Management of allotments and the rights of tenants

The remainder of Part 7 relates primarily to local authority powers to manage allotments and to the rights of allotment tenants in respect of these powers. These sections focus on the potential capacity to:

- Remove buildings and structures on allotment sites that break the regulations set out by the local authority for the allotment site. It also details the procedures that should be followed in notifying tenants of the removal of these structures and the opportunity for such a tenant to make representations in relation to the proposed action. Section 80 also allows a local authority to recover the costs of removal if a tenant is found to be liable.
- Allow an individual or association to represent the interests of tenants on an allotment site and for the local authority to delegate specific functions to them.
- Incur expenditure in relation to the management of allotments.
- Terminate leases and sub-leases of allotments or allotment sites in a number of potential situations, citing minimum notice periods, opportunities for tenants to appeal, and the situations where Scottish Ministers are required to give consent or where they have the power to amend these procedures.
- Allow tenants to sell surplus produce or to remove structures, plants or produce belonging to them from their allotment.
- Establish the situations where either the local authority or the tenant may claim compensation, and the procedures through which such claims should flow. These include compensation for deterioration, loss of crops or disturbance when a lease is terminated.

FINANCIAL IMPLICATIONS

While the financial memorandum anticipates no additional costs on the Scottish Administration, a number of costs relating to local authorities are detailed. These costs are dependent upon the current state of allotment provision in each local authority, and as a result cannot be accurately measured, and only indicative costs have been included. For local authorities who require to provide additional allotments to meet a high demand there is an estimate of £1,900 to £6,250 for the creation of each new allotment and an estimate of up to £150,000 for each new allotment site. The production of an allotments strategy is estimated at under £10,000 for each local authority, while an annual report is expected to cost between £500 and £1,000 to produce. The consultation recorded costs for maintaining a waiting list at anything from £100 to £9,000 per year.

PART 8: NON-DOMESTIC RATES

Non-Domestic Rates (also known as “business rates”) are a property based tax charged on properties used as businesses (e.g. shops, offices, warehouses and factories) and the public sector. They are based on the rateable value of a non-domestic property, multiplied by a poundage set annually by the Scottish Ministers, less any relief to which a ratepayer may be eligible. Business rates rise annually, usually in line with inflation. The Scottish Government has a series of relief schemes that are aimed at helping businesses by reducing their rates bill. In 2011, 57% of business properties paid zero or reduced rates. The system of Non-Domestic Rates and the various reliefs currently available are discussed in detail in the SPICe briefing, [Non-domestic Rates](#) (Berthier 2013).

Currently reliefs are set centrally by the Scottish Government, with local authorities having very limited scope to vary the terms locally. Part 8 of the Bill introduces a new power to allow local authorities to create localised relief schemes. The Policy Memorandum states that “there will be no restrictions on this power; local authorities will be able to grant the relief to any type of ratepayer or for any reason, as they see fit.” But, it goes on to state that any reliefs “will need to be fully funded by that authority, so it will need to balance the interests of taxpayers across its area.” The local authority will have no power to increase rates locally for business or levy any new supplement. In the letter of 1 August, the Government stated that “Relief could be granted to a sole property, a street, a town centre or a particular type of business or sector. They could be used, for example, to support or create employment, or to encourage regeneration of a particular area.”

This issue was consulted upon as part of a wider consultation on reform of business rates, [Supporting Business, Promoting Growth](#) (Scottish Government 2013) and received a high level of support (75% of those who expressed a view).

This part is not anticipated to have any financial implications, as local authorities are required to fully fund any reliefs that they introduce.

SOURCES

Accounts Commission and Auditor General for Scotland (2014). *Response to consultation on the Community Empowerment (Scotland) Bill*. Available at:

<http://www.scotland.gov.uk/Resource/0044/00445471.pdf> [Accessed 9 September 2014]

Audit Scotland (2012). *An Overview of Local Government in Scotland: Challenges and Change in 2012*. Available at: http://www.audit-scotland.gov.uk/docs/local/2012/nr_120315_local_authority_overview.pdf [Accessed 9

September 2014]

Audit Scotland. (2013) *Improving community planning in Scotland*. Edinburgh: Audit Scotland.

Available at: http://www.audit-scotland.gov.uk/docs/central/2013/nr_130320_improving_cpp.pdf [Accessed 12 August 2014]

Berthier, A. (2013) Non-domestic Rates. SPICe Briefing 13/84. Edinburgh: Scottish Parliament.

Available at: http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB_13-84.pdf [Accessed 12 August 2014]

Blair, Scott. *Common good and the law*. Available at:

<http://w.murraystable.com/assets/files/articles/Common%20Good%20and%20the%20Law.pdf> [Accessed 9 September 2014]

Burntisland Community Council (2014). *Response to consultation on the Community Empowerment (Scotland) Bill*. Available at:

<http://www.scotland.gov.uk/Resource/0044/00445279.pdf> [Accessed 9 September 2014]

Campbell, A. (2012) *The National Performance Framework and Scotland Performs*. SPICe Briefing 12/12. Edinburgh: Scottish Parliament. Available at:

http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S4/SB_12-12.pdf [Accessed 12 August 2014]

Community Empowerment (Scotland) Bill [as introduced] Session 4 (2014). SP Bill 52.

Edinburgh: Scottish Parliament. Available at:

[http://www.scottish.parliament.uk/S4_Bills/Community%20Empowerment%20\(Scotland\)%20Bill/b52s4-introd.pdf](http://www.scottish.parliament.uk/S4_Bills/Community%20Empowerment%20(Scotland)%20Bill/b52s4-introd.pdf) [Accessed 12 August 2014]

Community Empowerment (Scotland) Bill: Explanatory Notes (and other accompanying documents) Session 4 (2014). SP Bill 52-EN. Edinburgh: Scottish Parliament. Available at:

[http://www.scottish.parliament.uk/S4_Bills/Community%20Empowerment%20\(Scotland\)%20Bill/b52s4-introd-en.pdf](http://www.scottish.parliament.uk/S4_Bills/Community%20Empowerment%20(Scotland)%20Bill/b52s4-introd-en.pdf) [Accessed 12 August 2014]

Community Empowerment (Scotland) Bill: Policy Memorandum Session 4 (2014). SP Bill 52-EN. Edinburgh: Scottish Parliament. Available at:

[http://www.scottish.parliament.uk/S4_Bills/Community%20Empowerment%20\(Scotland\)%20Bill/b52s4-introd-pm.pdf](http://www.scottish.parliament.uk/S4_Bills/Community%20Empowerment%20(Scotland)%20Bill/b52s4-introd-pm.pdf) [Accessed 12 August 2014]

Community Land Advisory Service (2014). *Community Empowerment (Scotland) Bill*

Consultation. Available at: <http://www.scotland.gov.uk/Resource/0044/00445272.pdf> [Accessed 9 September 2014]

City of Edinburgh Council (2013). *City of Edinburgh Council (Portobello Park) Bill*. Available at:

[http://www.scottish.parliament.uk/S4_Bills/City%20of%20Edinburgh%20Council%20\(Portobello%20Park\)%20Bill/b29s4-introd-pm.pdf](http://www.scottish.parliament.uk/S4_Bills/City%20of%20Edinburgh%20Council%20(Portobello%20Park)%20Bill/b29s4-introd-pm.pdf) [Accessed 9 September 2014]

Ferguson, Andrew C (2013). *City of Edinburgh Council (Portobello Park) Bill* Written submission from Andrew C Ferguson. Available at: http://www.scottish.parliament.uk/S4_City_of_Edinburgh_Council_Portobello_Park_Bill_Committee/Inquiries/EPPwe16_Andrew_C_Ferguson_WEB.pdf [Accessed 9 September 2014]

Ferguson, Andrew C (2006). *Common Good Law* [Accessed 9 September 2014]

Finance Committee. (2013) *10th Report, 2013 (Session 4): Draft Budget 2014-15*. SP Paper 431. Edinburgh: Scottish Parliament. Available at: http://www.scottish.parliament.uk/S4_FinanceCommittee/Reports/fir-13-10w.pdf [Accessed 12 August 2014]

Grow Your Own Working Group. (2011). *Report for Scotland's National Food and Drink Policy Recipe for Success*. Edinburgh: Scottish Government. Available here: <http://www.scotland.gov.uk/Resource/Doc/917/0114173.pdf> [Accessed 21 August 2014]

Hillhead Community Council (2014). *Community Empowerment (Scotland) Bill Consultation* Available at: <http://www.scotland.gov.uk/Resource/0044/00445452.pdf> [Accessed 9 September 2014]

Land Reform (Scotland) Act (2003 asp 2). Available at: <http://www.legislation.gov.uk/asp/2003/2/contents> [Accessed 26 August 2014]

Law Society of Scotland (2014). *Community Empowerment (Scotland) Bill The Law Society of Scotland's response*. Available at: <http://www.scotland.gov.uk/Resource/0044/00445489.pdf> [Accessed 9 September 2014]

Local Authority Scotland Accounts Advisory Committee (LASAAC) (2007). *Accounting for the Common Good: a Guidance Note for Practitioners*. Available at: http://www.cipfa.org/-/media/files/regions/scotland/lasaac/3h%20lasaac%20accounting_for_the_common_good_final_version.pdf [Accessed 9 September 2014]

Local Government and Regeneration Committee. (2013) *9th Report, 2013 (Session 4) Public Services Reform in Scotland: Strand 3 - Developing New Ways of Delivering Services*. SP Paper 370. Edinburgh: Scottish Parliament. Available at: http://www.scottish.parliament.uk/S4_LocalGovernmentandRegenerationCommittee/Reports/lgr-13-09w.pdf [Accessed 12 August 2014]

Local Government and Regeneration Committee. (2014a). *Call for evidence on the Community Empowerment Bill*. Available at: http://www.scottish.parliament.uk/S4_LocalGovernmentandRegenerationCommittee/General%20Documents/Community_Empowerment_Bill_call_for_evidence_20140626.pdf [Accessed 12 August 2014]

Local Government and Regeneration Committee. (2014b). *Community Empowerment (Scotland) Bill*. Available at: <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/78599.aspx> [Accessed 12 August 2014]

Local Government and Regeneration Committee. (2014c). *Letter to Scottish Government on the Community Empowerment Bill*. Available at: http://www.scottish.parliament.uk/S4_LocalGovernmentandRegenerationCommittee/General%20Documents/20140109-KS_to_Minister_LGP_on_Comm_Emp_Bill_Policy_Memo_20140625.pdf [Accessed 12 August 2014]

Local Government and Regeneration Committee. (2014d). *Scottish Government responses to Committee questions on Community Empowerment Bill*. Available at: [http://www.scottish.parliament.uk/S4_LocalGovernmentandRegenerationCommittee/General%20Documents/Responses to LGR Committee Questions - 1st August 2014.pdf](http://www.scottish.parliament.uk/S4_LocalGovernmentandRegenerationCommittee/General%20Documents/Responses%20to%20LGR%20Committee%20Questions%20-%201st%20August%202014.pdf) [Accessed 12 August 2014]

Local Government in Scotland Act (2003 asp 1). Available at: <http://www.legislation.gov.uk/asp/2003/1/contents> [Accessed 12 August 2014]

Registers of Scotland. (2014) *Register of Community Interest in Land*. Edinburgh: Registers of Scotland. Available at: <http://www.ros.gov.uk/rcil/> [Accessed 26 August 2014]

Renfrewshire Council (2014). *Community Empowerment (Scotland) Bill Consultation* Available at: <http://www.scotland.gov.uk/Resource/0044/00445247.pdf> [Accessed 9 September 2014]

Rural Affairs and Environment Committee. (2010a) *Centre for Mountain Studies, Perth College UHI - Post Legislative Scrutiny of the Land Reform (Scotland Act) 2003*. Edinburgh: Scottish Parliament. Available here: <http://archive.scottish.parliament.uk/s3/committees/rae/documents/Inquiryplanningsheet.pdf> [Accessed 26 August 2014]

Rural Affairs and Environment Committee. (2010a) *Centre for Mountain Studies, Perth College UHI - Post Legislative Scrutiny of the Land Reform (Scotland Act) 2003: Executive Summary*. Edinburgh: Scottish Parliament. Available here: http://archive.scottish.parliament.uk/s3/committees/rae/documents/PostLegislativeScrutinyoftheLRSA-ExecutiveSummary_1.pdf [Accessed 26 August 2014]

Scottish Executive. (2004) *The Local Government in Scotland Act 2003 – Community Planning: Statutory Guidance*. Edinburgh: Scottish Executive. Available at: <http://www.scotland.gov.uk/Resource/Doc/47237/0028845.pdf> [Accessed 12 August 2014]

Scottish Government. (2009) *Finance Guidance Note 2009/01 – Financial Memoranda that accompany Scottish Government Bills*. Available at: <http://www.scotland.gov.uk/Topics/Government/Finance/spfm/GuidanceNotes/fqn0901> [Accessed 25 August 2014]

Scottish Government. (2009). *Recipe for Success –Scotland’s National Food and Drink Policy*. Edinburgh: Scottish Government. Available here: <http://www.scotland.gov.uk/Resource/Doc/277346/0083283.pdf> [Accessed 21 August 2014]

Scottish Government. (2011) *Commission on the future delivery of public services*. Edinburgh: Scottish Government. Available at: <http://www.scotland.gov.uk/Resource/Doc/352649/0118638.pdf> [Accessed 12 August 2014]

Scottish Government. (2012a) *Community Planning Review – Statement of Ambition*. Edinburgh: Scottish Government. Available at: <http://www.scotland.gov.uk/Topics/Government/local-government/CP/soa> [Accessed 12 August 2014]

Scottish Government. (2012b) *A consultation on the proposed Community Empowerment and Renewal Bill*. Edinburgh: Scottish Government. Available at: <http://www.scotland.gov.uk/Publications/2012/06/7786> [Accessed 12 August 2014]

Scottish Government. (2012c) *Consultation on the proposed Community Empowerment and Renewal Bill: An analysis of responses*. Edinburgh: Scottish Government. Available at: <http://www.scotland.gov.uk/Resource/0041/00410864.pdf> [Accessed 12 August 2014]

Scottish Government. (2012d) *Overview of Evidence on Land Reform in Scotland*. Edinburgh: Scottish Government. Available at: <http://www.scotland.gov.uk/Publications/2012/07/3328> [Accessed 26 August 2014]

Scottish Government. (2013a) *Consultation on the Community Empowerment (Scotland) Bill*. Edinburgh: Scottish Government. Available at: <http://www.scotland.gov.uk/Publications/2013/11/5740> [Accessed 12 August 2014]

Scottish Government (2013b) *Consultation on The Legislative Framework Governing Allotments*. Edinburgh: Scottish Government. Available at: <http://www.scotland.gov.uk/Resource/0041/00418428.pdf> [Accessed 21 August 2014]

Scottish Government (2013c) *Consultation on The Legislative Framework Governing Allotments: Consultation Report*. Edinburgh: Scottish Government. Available at: <http://www.scotland.gov.uk/Resource/0043/00437675.pdf> [Accessed 21 August 2014]

Scottish Government. (2013d) *Supporting Business – Promoting Growth: Business Rates Consultation – Analysis of consultation responses*. Edinburgh: Scottish Government. Available here: <http://www.scotland.gov.uk/Resource/0043/00433236.pdf> [Accessed 12 August 2014]

Scottish Government. (2014a) *Community Planning and Single Outcome Agreements (SOAs) - Delivering on the Statement of Ambition*. Available at: <http://www.scotland.gov.uk/Topics/Government/PublicServiceReform/CP/communityplanningreview> [Accessed 12 August 2014]

Scottish Government. (2014b) *Consultation on Community Empowerment (Scotland) Bill: Analysis of Responses*. Edinburgh: Scottish Government. Available at: <http://www.scotland.gov.uk/Publications/2014/06/3535> [Accessed 12 August 2014]

Scottish Government. (2014c) *Land Reform Review Group – final report*. Edinburgh: Scottish Government. Available here: <http://www.scotland.gov.uk/About/Review/land-reform/events/FinalReport23May2014> [Accessed 12 August 2014]

Scottish Government. (2014d) *Personal Communication*. [unpublished]

Scottish Government. (2014e) *Scotland Performs*. Available here: <http://www.scotland.gov.uk/About/Performance/scotPerforms> [Accessed 12 August 2014]

Scottish National Party. (2011) *Manifesto 2011*. Available here: http://votesnp.com/campaigns/SNP_Manifesto_2011_lowRes.pdf [Accessed 12 August 2014]

Selkirk Regeneration Company (2014). *Community Empowerment (Scotland) Bill Consultation* Available at: <http://www.scotland.gov.uk/Resource/0044/00445277.pdf> [Accessed 9 September 2014]

Society of Local Authority Solicitors and Administrators in Scotland (SOLAR) – *Community Empowerment (Scotland) Bill Consultation*. Available at: <http://www.scotland.gov.uk/Resource/0044/00445481.pdf> [Accessed 9 September 2014]

West Dunbartonshire Council (2014). *Community Empowerment (Scotland) Bill Consultation* Available at: <http://www.scotland.gov.uk/Resource/0044/00445455.pdf> [Accessed 9 September 2014]

Wightman, Andy (2009). *Common Good A Quick Guide*. Available at: <http://www.scottishcommons.org/docs/commongoodguide.pdf> [Accessed 9 September 2014]

Wightman, Andy and Perman, James (2005). *Common Good Land in Scotland: A Review and Critique*. Available at: http://www.scottishcommons.org/docs/commongood_v3.pdf [Accessed 9 September 2014]

THIS PAGE IS INTENTIONALLY BLANK

RELATED BRIEFINGS

SB 11-52 [The Commission on the Future Delivery of Public Services](#) (456KB pdf)

Scottish Parliament Information Centre (SPICe) Briefings are compiled for the benefit of the Members of the Parliament and their personal staff. Authors are available to discuss the contents of these papers with MSPs and their staff who should contact Allan Campbell on extension 85459 or email allan.campbell@scottish.parliament.uk. Members of the public or external organisations may comment on this briefing by emailing us at SPICe@scottish.parliament.uk. However, researchers are unable to enter into personal discussion in relation to SPICe Briefing Papers. If you have any general questions about the work of the Parliament you can email the Parliament's Public Information Service at sp.info@scottish.parliament.uk.

Every effort is made to ensure that the information contained in SPICe briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

Published by the Scottish Parliament Information Centre (SPICe), The Scottish Parliament, Edinburgh, EH99 1SP

www.scottish.parliament.uk