

Land Reform (Scotland) Bill

Child Rights and Wellbeing Impact Assessment (CRWIA)

March 2024

Disclaimer

This **draft** document is an **initial assessment** of the impact of the Land Reform (Scotland) Bill and Scottish Government will continue to review and update this document where required during the parliamentary process. Any future iterations will reflect an increased understanding of these impacts as the amount of data and research available continues to grow.

This impact assessment should be read in conjunction with the Equality Impact Assessment and the Fairer Scotland Duty Assessment.

CRWIA Stage 1 – Screening

1. Brief Summary

The summary below has been drafted to be a simplified description of the proposals. For more detail, you can read the Policy Memorandum for the Bill. The Bill covers four main policy areas:

- it takes forward the government’s land reform programme;
- it creates a new letting arrangement to support people to undertake a range of land use activities (Land Management Tenancy (LMT))
- it modernises agricultural holdings legislation; and
- it modernises small landholdings legislation.

The aims of the reforms proposed in the areas above are set out below.

1.1 Land Reform

The land reform proposals will mean that:

- Scottish Ministers can make regulations which require that:
 - owners of large landholdings will need to produce a ‘Land Management Plan’, which is a plan that gives information about the land and what they plan to do with it.
 - A ‘large landholding’ is a landholding bigger than 3000 hectares, or for a landholding on an island, over 1000 hectares and over 25% of the island.
 - Landowners will need to make sure that when they are making this plan, they talk to local people who might be impacted (‘community groups’), allowing them to share their views if they want to.
 - If a community group asks the landowner to lease land to them (to use the land for a period of time for a specific reason, for example for a community garden), then the landowner will need to respond to the request. The landowner doesn’t always have to agree, but if they don’t agree then they need to let the group know why (e.g. if they need that land for another reason).
- When a landowner who owns more than 1000 hectares of land wants to sell some or all of their land they will need to take extra steps:
 - The owner will need to let the Scottish Government know ahead of the sale about the land they intend to sell, so that they can send information to community groups in the area and ask them if they would like to apply to buy some or all of the land. The owner won’t be able to continue with selling the land (for example: putting an advert online or to other buyers) until community groups have been given the chance to buy the land if they want to.
 - A new ‘transfer test’ will take place when an owner is planning to sell more than 1000 hectares, to let Scottish Ministers consider if it may improve the sustainability of communities in the area if land is be sold

not as one big landholding, but as smaller landholdings to different people.

These proposals aim to:

- improve the information that the public and local communities have about very large landholdings and how they are used;
- give communities in rural areas more say in decisions about the land on which they live and work;
- increase opportunities for community bodies to purchase land when the landowner is planning to sell;
- allow Ministers to consider (before a planned sale) if land being sold in lots could increase the supply of more varied plots of land in a way that might be expected to have a positive impact on the ongoing sustainability of communities in the area.

By giving more opportunities to purchase land and encouraging landowners and local communities to talk more to each other, we also expect that the Bill will help a wider range of people to own land.

1.2 Land Management Tenancy

The development of a new Land Management Tenancy will enable more people to undertake a range of land use activities through one agreement including sustainable and regenerative agriculture, sustainable high quality food production and activities which mitigate climate impacts such as tree planting, nature conservation and restoration, flood management and peatland restoration.

1.3 Modernising Agricultural Holdings legislation – summary of policy objectives

The agricultural holdings provisions will give tenant farmers greater equality of opportunity and increase their ability to mitigate and adapt to climate change challenges.

These include changing:

- Diversification – so tenant farmers have greater opportunity to diversify their business, to support profitability and address the twin crises of climate change and biodiversity loss.
- Agricultural improvements – to give tenant farmers greater scope to improve their holdings and undertake sustainable and regenerative agriculture.
- Good husbandry and estate management rules – so tenant farmers are able to undertake sustainable and regenerative agricultural practices.
- Waygo (the legal term for when the tenancy ends, and compensation is due)- so tenant farmers and their landlords can settle their compensation claims quickly and move forward with the next stage of their life.
- Rent review – by improving changes made by the Land Reform (Scotland) Act 2016, drawing on the work of the Tenant Farming Forum stakeholder group, to create a flexible ‘hybrid’ system of rent review meeting industry’s needs.

- Resumption – to enable tenant farmers to plan with more business certainty and to enable them to receive fair compensation if their landlord takes back any part of the leased land.
- Compensation for game damage – by modernising the compensation for game damage legislation to recognise a wider range of agricultural damage faced by tenant farmers; and
- Improve the pre-emptive right to buy process – to improve the process and give tenant farmers and their landlords more transparency over the area of land that the pre-emptive right to buy is applicable to.

1.4 Modernising Smallholdings legislation – summary of policy objectives

The provisions modernise the legal framework for small landholders to make the legislation more comparable to other kinds of land tenure and so small landholders are more able to engage in delivering our Vision for Agriculture. These include:

- Pre-emptive right to buy – giving small landholders the opportunity to purchase their small landholding if their landlord or creditor plans to sell the land.
- Diversification – giving small landholders greater opportunity to diversify their business, to support profitability and enable them to take action to help address the twin crises of climate change and biodiversity loss.
- Succession and assignation – enabling small landholders to be able to assign or leave their small landholding tenancy in their will to the same kinds of people as tenant farmers can with secure agricultural tenancies in the Agricultural Holdings (Scotland) Act 1991.
- Umbrella Body – giving small landholders and their landlords access to advice and support from the Tenant Farming Commissioner and;
- Rent and compensation – modernising the existing provisions on rent and compensation so there is a fair balance between the interests of small landholders and their landlords.

Contribution to the Government’s Purpose and National Outcomes

The proposals in this Bill will contribute to the following national outcomes:

- Communities – We live in communities that are inclusive, empowered, resilient and safe.
- Environment – We value, enjoy, protect and enhance our environment.
- Economy – We have a globally competitive, entrepreneurial, inclusive and sustainable economy.
- Human Rights – We respect, protect and fulfil human rights and live free from discrimination.
- Poverty - We tackle poverty by sharing opportunities, wealth and power more equally.

Start date of relevant proposal: 4 July 2022 (*Land Reform in a Net Zero* consultation)

Start date of CRWIA process: 27 June 2023 (Internal workshop on equalities impacts of Bill policies)

2. Which aspects of the relevant proposal currently affects or will affect children and young people up to the age of 18?

Land Reform

People who will be most impacted by the land reform proposals are those that own landholdings over a certain size. When discussing sizes of landholdings, we are using the measurement 'hectare'. For comparison, the pitch at Murrayfield stadium is around one hectare in size.

Where someone owns a landholding that is on the Scottish mainland, they will have to engage with communities and produce a land management plan if they own a landholding larger than 3000 hectares. Landowners who own land that is on a permanently inhabited island will need to engage with communities and produce a land management plan if their landholding is larger than 1000 hectares and is at least 25% of the land on the island. Data on who owns land in Scotland suggests that this will be around 414 landholdings¹, which make up around 41% of Scotland's total land.

If a landowner anywhere in Scotland (islands or mainland) owns more than 1000 hectares of land, then they will need to take additional steps before selling their land. Data on who owns land in Scotland suggests that this will be around 1066 landholdings, making up around 55% of Scotland's total land. As a landowner can own more than one landholding, it is likely that the number of landowners affected will be lower than the number of landholdings.

The value of individual landholdings, even of the same size, can be very different as land quality, location and other factors are also important. Reported land values in the Scottish Land Commission's 2023 Rural Land Market Insights Report² suggest that landholdings over 1000 hectares are likely to range in value from several million to hundreds of millions of pounds.

2006-2020 statistics on property wealth in Scotland (as published by the Scottish Government³) note that younger households are much less likely to have much or any property wealth. As the Land Reform policies are focussed on particularly high value landholdings, it is very unlikely that many young people up to 18 will be directly impacted by these policies as landowners.

Young people living on or near large landholdings may be positively impacted by Land Management Plan and community engagement proposals by being part of a local community that is engaging with the landowner. The Land Reform Bill sets out high level information about these proposals but the detail of what will be included in

¹ A technical paper with further information on the datasets and methodology used by JHI will be published alongside the BRIA

² Merrell, I., Pate, L., Glendinning, J. and Thomson S. (2023) Rural Land Market Insights Report 2023. A report commissioned by the Scottish Land Commission : [SLC Rural Land Market Insights 2023 \(landcommission.gov.scot\)](https://www.landcommission.gov.scot)

³ Wealth in Scotland 2006-2020, A Scottish Government Official Statistics publication, 18 February 2022, [Wealth in Scotland 2006-2020 \(data.gov.scot\)](https://www.data.gov.scot)

plans and how landowners should engage with local communities will be set out in regulations (secondary legislation). Further consultation and a full Child Rights and Wellbeing Impact Assessment will be carried out to support these regulations.

Land Management Tenancy, Agricultural Holdings, Small Landholdings

The Scottish Government Agricultural Census 2021 data confirms there are very low numbers of young people under the age of eighteen managing agricultural land and an even smaller number hold an agricultural tenancy or small landholding. Additional detail is not possible given the potential small numbers involved and the risk of disclosure, and the difficulty in collecting tenancy information.

There are approximately seven people under the age of eighteen who are head of business and/or livestock keepers and able to claim agricultural subsidy (and have a Business Registration Number (BRN)) on the Scottish Government's Rural Payments and Services website. It is unlikely any of these young people will lease land. Scottish Government officials have consulted with the Scottish Tenant Farmers Association who have confirmed that they have no members with a tenancy under the age of eighteen. Based on this evidence the proposals for the Land Management Tenancy, agricultural holdings, and small landholdings, are unlikely to directly impact under eighteens due to lack of them currently leasing land.

The small landholdings succession and assignment proposals have the potential to benefit young people by providing them with greater opportunity to inherit or be assigned a small landholding.

3. Which groups of children and young people are currently or will be affected by the relevant proposal?

As indicated above, any impact on children as defined by the UNCRC is likely to be limited. Where there is any impact, this is not expected to differ based on other protected characteristics. Further consideration of these protected characteristics will be provided in the EQIA and Fairer Scotland Duty impact assessments for the Bill.

Declaration

4. Is a Stage 2 Children's Rights and Wellbeing Impact Assessment required?

CRWIA required No explanation required, please complete questions 5 and 6

CRWIA not required Please explain why below and contact the children's rights unit to discuss this decision crwia@gov.scot

Explanation why CRWIA is not required:

As noted above, the impacts on young people of the majority of these proposals is anticipated to be minimal. This is because there are not anticipated to be many young people in direct scope of the land reform proposals as landowners, due to the property values of landholdings in scope. Land Management Tenancy, agricultural

holding, and small landholding proposals are unlikely to directly impact children and young people under 18 given the small number leasing land in scope of this Bill and so any impacts are limited to potential future positive impacts relating to the potential succession or assignation for small landholders.

The community engagement and land management plan elements of the land reform proposals are anticipated to have a potential direct positive impact on young people as part of communities. Given that only the high-level requirements on landowners are being set out in the Land Reform Bill, a full CRWIA in respect of these proposals for the Bill would not be meaningful. Instead, a full CRWIA will be carried out for the regulations which will establish the detail of what will be included in plans and how landowners should engage with local communities, including children and young people who live there.

5. Sign & Date

Policy Lead Signature & Date of Sign Off: Nye Todd, Fiona Leslie – 23/02/2024

CRWIA author, if different from policy lead, Signature & Date of Sign Off:

Deputy Director Signature & Date of Sign Off: Fiona Harrison (for Land Reform) 1 March 2024, John Kerr (for other sections) 4 March 2024

Date SGLD contacted 26/02/2024

Once signed off, please send to CRWIA@gov.scot and publish on gov.scot or relevant Executive Agency website.



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