

CALUM MACLEOD guest columnist



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Scotland's land reform process has been giving a pretty good impression of being in legislative overdrive recently. A couple of weeks ago the Scottish Parliament passed the Community Empowerment Act containing, amongst other things, long-overdue provisions to simplify the 'crofting community' and 'community' rights to buy land and extend the latter's coverage to urban as well as rural areas.

That was followed last week by the Scottish Government's publica-

tion of its long-awaited Land Reform Bill, embryonic legislation that the SNP claims will help permanently redraw the relationship between Scotland's people and land in the interests of fairness, equality and social justice. That's an optimistic assertion that the Bill in its current format may struggle to match.

Few of the Bill's provisions will surprise anyone who's kept half an eye on the way land reform's been evolving as a policy issue over the last few months. They were heavily trailed in a Government consultation paper issued last December in the wake of Nicola Sturgeon's headline-grabbing announcement that "radical land reform" would be at the centre of the SNP's programme for government during the remainder of this Parliamentary session.

Many of the proposals contained in that paper have subsequently found their way on to the pages of the draft Bill. So there are provisions for a Scottish Land Commission and a Land Rights and Responsibilities Policy Statement to make sure that — this time — land reform sticks around on the political agenda rather than exiting stage left as happened after the Land Reform (Scotland) Act 2003 was passed. There are provisions too for enhancing access to information on exactly who does own Scotland and for creating a duty upon Scottish Ministers to develop guidance for landowners to engage with communities when making land management decisions. Alongside these sit interim proposals for deer management ahead of a future

statutory scheme, some minor modifications to statutory provisions on common good and marginal changes to the core paths planning process.

Some have argued that these provisions risk adding more layers of centralising bureaucracy where none are needed. But, apart from that, there's really very little in the above for Scotland's landed elite to get terribly exercised about.

In contrast, the Land Reform Bill's remaining proposals have generated less sanguine responses from that constituency. The proposal to remove business rates exemptions from deer forests and shootings (enterprises that are essentially the preserve of large private estates) has prompted landed interests to warn of potentially-dire consequences for the rural economy in terms of lost jobs and dwindling inward investment. That argument appears to have cut very little ice with the Government. The Policy Memorandum accompanying the Bill flatly states that there is no clear policy basis for these exemptions to continue and that the Government is unconvinced as to the allegedly negative effects that their removal will cause.

Indeed there's a counter-argument to be made that levelling the business rates playing field may actually result in economic benefits, given that the additional revenues will help top up the Scottish Land Fund to the tune of £10 million per year to finance more community land buyouts. That 'glass half full' perspective is admittedly unlikely to be shared by all.

Aside from the prospect of tax exemptions disappearing, provisions to enable Ministers to force the sale of land if the scale of landownership or landowners' decisions act as a barrier to communities' sustainable development have also sounded alarm bells amongst private landowners. Predictably it hasn't taken long for the polarising rhetoric of 'Robert Mugabe-style land grabs' to be dusted down and given a thorough airing in much of the ensuing media coverage of the Bill. However, anyone seriously anticipating that land will be wrenched from private hands in a redistributive frenzy to the masses probably needs to take a deep breath before gently exhaling. In practice it's highly doubtful that progressive private landowners (as most of them claim to be) will have anything much to fear from what are likely to be last-resort, backstop powers of intervention when all other avenues of mediation have been exhausted.

Still, that will probably be of cold comfort to lairds unless some definitional backbone is added to the opaque concept of 'sustainable development' within the legislation.

Parliament also faces the potentially-challenging issue of having to untangle the relationship between the Land Reform Bill's proposed Right to Buy and the newly-minted 'unwilling seller' variant contained in the Community Empowerment Act. It's unclear why the proposed right focuses on advancing 'sustainable development' when that was rejected as a basis for

the existing Right to Buy in favour of emphasising 'environmental wellbeing'. Neither is it obvious whether communities will be able to use the proposed right as an alternative to the Community Empowerment Act's Right to Buy so as to force a buyout in the absence of a willing seller. Expect this aspect of the Bill to be subjected to particularly-intense scrutiny when making its way through the legislative process.

The third area of contention relates to the sizable portion of the Bill relating to Agricultural Holdings. At first reading, provisions on future tenancy arrangements; tenant's right to buy; sale when landlord in breach of tenancy obligations; rent reviews; assignation and succession to tenancies; compensation for tenant's improvements; and a right to object to certain improvements by landlords all seem focused on improving the lot of tenant farmers. However, critics are already lining up to argue that these measures don't go far enough to put the relationship between agricultural tenants and landlords onto a more equitable footing. In contrast, others contend that bolting these provisions on to the Bill risks 'cut and shut' legislation that creates as many problems as it seeks to solve.

TIME WILL TELL how these and other aspects of the Bill fare as it progresses through Parliament in the autumn.

It's perfectly clear that the

legislation will not be the prelude to an ideologically-driven trolley dash to grab Scotland's private estates en route to a socialist nirvana, whatever land reform's more excitable detractors may claim. That view is further underscored by the Bill's omission of any provisions to limit both the scale of land-ownings in Scotland and the ability of non-EU-registered entities to own Scottish land; two of the more radical proposals contained in last year's report by the Government-appointed Land Reform Review Group. Despite all the heady talk about 'radical reform', the Bill therefore seems to be much more about pragmatic policy evolution than revolution.

That the Land Reform Bill will secure cross-party support in Parliament seems beyond doubt. All of the mainstream parties (Scottish Tories aside) have pinned their colours to land reform's mast to a greater or lesser degree, and all will be lodging amendments to the Bill's provisions as it progresses through Parliament. Given how the Parliamentary arithmetic is likely to stack up, it will therefore be both intriguing and instructive to see just how bold the SNP Government is prepared to be within the apparently-modest reforming boundaries of the Bill's provisions.

More generally, it's essential that both the current and forthcoming legislation form part of a much wider, ongoing programme of progressive land reform rather than representing Government's last word on the process.