

# Minority Government – challenge or opportunity for reform?

West Harris has transferred from public to community ownership in recent years

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**Rural policy expert Dr Calum MacLeod examines the prospects for more land reform in the coming five years ...**

**T**HE SNP'S VICTORY in the Scottish Parliamentary election on May 5th was entirely predictable. However, the party's failure to win an overall Parliamentary majority makes the course it will chart on land reform over the next five years as a minority Government far less so. What seems certain is that land reform will become increasingly embedded in Government's decision-making structures following Nicola Sturgeon's reshuffling of Cabinet portfolios and Ministers after the SNP's election win.

A new post of Cabinet Secretary for Environment, Climate Change and Land Reform has been established, signalling that land reform is as much an urban as a rural issue. The appointment of Roseanna Cunningham to that post is an interesting move on the First Minister's part. Cunningham is seen as being on the left of her party and has a previous track-record on land reform, having been Environment Minister when the Parliament's Rural Affairs Committee undertook post-legislative scrutiny of the Land Reform (Scotland) Act 2003 back in 2010. Her subsequent commitment to reviewing the 2003 Act was arguably the catalyst for the Land Reform Review Group's influential 2014 report, 'The Land of Scotland and the Common Good', together with legislation and other developments that have flowed from its recommendations. Cunningham is notable too for sanctioning the Paicr Trust's use of the Crofting Community Right to Buy to eventually purchase the Paicr Estate in Lewis.

Intriguingly the new Cabinet Secretary has not been averse to "radical" land reform in the past. In 2003 when the Scottish Parliament was in the process of passing its first Land Reform Act, she tabled an amendment (subsequently rejected) to force land sales to communities using the legislation's Community Right to Buy. Time will tell whether Cabinet Secretary Cunningham retains any such radical instincts in her new post.

In the short to medium term, the Government's land reform agenda is likely to be dominated by implementation of the Land Reform (Scotland) Act 2016 passed at the end of the previous Parliamentary session. As much was indicated by the SNP's 2016 election manifesto offer on land reform that reiterated commitments linked to the 2016 Act. In practical terms that means establishing a Scottish Land Commission by April 2017, publishing a Scottish Land Rights and Responsibilities statement, creating a mandatory public register of controlling interests in landowners or tenants and implementing a new community right to buy

to further sustainable development. It also means implementing the Act's complex and contentious Agricultural Holdings provisions.

Aside from that, the Government will implement recommendations from the 'One Million Acres by 2020', strategy report of the 1 Million Acre Short Life Working Group designed to increase the amount of land in community ownership. The SNP manifesto also commits to "proposals to modernise and improve powers for compulsory sale orders" and reviewing small landholding legislation. There's a further manifesto commitment to establish Land Scotland, a new land agency "to maximise the benefits of publically owned land to the nation". That's a laudable aim although the new agency's potential implications for the Forestry Commission, Scottish Natural Heritage and the Crown Estate currently remain unclear.

**M**ANIFESTO COMMITMENTS are all very well. However, the intriguing issue is how, if at all, the political realities of minority government might recalibrate the land reform agenda over the next five years. It will be especially interesting to see whether the Scottish Greens – with prominent land reform campaigner Andy Wightman one of their 6 MSPs – gain policy traction with the SNP regarding their own manifesto proposals for "bolder" land reform.

The Greens are already making noises about the need for a further Land Reform Act during the current Parliamentary session. Their 2016 manifesto provides strong clues about what at least part of another Act might include. The manifesto focuses on increasing transparency of land ownership via an open, free-to-use national land information system and an end to land ownership in offshore tax havens; providing a right for secure agricultural tenants to buy their farms "in certain circumstances"; giving children equal rights to inherit land; allowing local authorities to obtain land for higher quality housing at existing use value; ensuring all vacant and derelict land is subject to non-domestic rates; and replacing the current system of non-domestic rates with a land value tax. Given the party's decentralising instincts, there's also a strong emphasis on community control of public land and on community agriculture by modernising the Land Settlement (Scotland) Act 1919.

On first inspection there seems to be enough in that prospectus to enable the Greens to find common cause with the hefty swathe of the SNP's membership who are pressing for more radical reform. The question is whether SNP grass-roots support for further reform might coalesce with the Greens' ambitions on that front

to produce tangible policy action during the current Parliamentary session. Michael Russell MSP, fast becoming the SNP's foremost land reform apostle, certainly seems to think so, remarking on social media recently that there is "lots of synergy" with the Greens on land reform.

Of course it may be that the SNP High Command adopts a pragmatic stance and seeks support from elsewhere in the chamber to drive aspects of its legislative agenda through Parliament. It wouldn't be the first time that has happened. As the informal arrangement between the SNP and Scottish Conservatives in the 2007-11 Parliamentary session showed, minority government can make for unlikely bedfellows when political necessity demands.

However, given the febrile atmosphere of post-independence referendum politics in Scotland it might be safe to assume that the Scottish Tories are now a no-go area for the SNP. In which case the possibilities afforded by minority government may already be causing the collective pulses of the Parliament's small contingents of Liberal Democrat and Green MSPs to quicken in anticipation of playing the role of Holyrood powerbrokers. Much will depend on how far to the left of Scottish politics' centre ground the SNP stakes its policy agenda over the next five years. The evolution of land reform as part of that agenda will tell us a great deal about exactly what the SNP's vision of itself as a left of centre, social democratic party looks like in practice.

**W**HATEVER THE NATURE OF the political horse-trading to come, it's clear that some of the mood music surrounding land reform has changed. Scottish Land & Estates, the membership organisation for private landowners, held its spring conference in Edinburgh a couple of weeks ago with a strapline of 'Modern Landownership in Scotland – The Future Challenges'. SL&E remains opposed to aspects of the Government's land reform agenda that it sees as imperilling individual property rights and the wider rural economy. Nevertheless, SL&E Chairman, David Johnstone, struck an mollified tone in his conference address, stating "Landowners and land businesses have been in the firing line during an intensive land reform debate over the last two years. Although many feel they have been portrayed as being opponents of change, we now need to embrace this new era of landownership and do even more to demonstrate we have listened and understand arguments for change. We believe that now the dust is settling there is a very compelling case to be made for a rural concord - a fresh start in which

government, community bodies and landowners work together in a spirit of renewed co-operation".

No one will be under any illusions that SL&E is about to be converted to anything approaching radical land reform. It also remains to be seen how far warm words about "renewed co-operation" translate into tangible action. Land reform is, after all, essentially a multi-faceted issue of power: who has it; how it is exercised; and who benefits from it. Consequently, participants in any future rural concord would do well to keep these issues to the fore when considering how it might play out in practice.

That said, the 'new era of landownership' has already yielded one initiative in the spirit of renewed co-operation that David Johnstone envisages. As reported in this paper last week, Community Land Scotland and Scottish Land & Estates have jointly developed a Protocol for Negotiated Sales, launched at the CLS annual conference in Stormoway. That protocol is designed to provide a 'roadmap' for facilitating negotiated land sales from willing private landowners to communities. It's a positive development in terms of helping to smooth the path towards community land purchases in non-contentious circumstances.

Whilst welcoming progress on land reform and community ownership, Lorne MacLeod, Chairman of CLS, is nevertheless clear that pressing issues still require attention. He said "There needs to be the possibility of some form of intervention to allow communities to acquire land where there is a monopoly of land ownership in any community, with jobs and housing inextricably linked to one privately owned estate. We have heard from communities where a monopoly of land ownership exists, and we're not sure that legislation approved in the last session of Parliament will fully tackle such situations."

The land reform agenda is likely to be dominated during the early stages of the new Parliamentary session by the important task of fleshing out and implementing provisions contained in the Land Reform Act 2016. Some will say that's more than enough to be getting on with. They might well be right.

Nevertheless, the deep-running currents of minority government, continuing grassroots pressure for more action from within the SNP's membership and beyond, and the omnipresent constitutional issue of independence suggest that Scotland's land reform journey may still have a way to go.

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