

Supplementary evidence from Community Land Scotland

Extract of email from Duncan Macpherson regarding proposals for Part 3 that communities must identify owners to land, people with standard securities over land, tenants, sporting interests.

- a. Owner – I remember trying to find out who was the rightful owner of XXXXXXXXXXXX. It went through a series of transfers between related parties and finally to several named individuals; of whom all bar one were fictitious. We made our best guess regarding the likely owner and that was accepted for a part 2 registration. If you went for using 'reasonable endeavours' to find the owner that may also be difficult as it might be considered reasonable to go to court to have it decided who is the real owner. We are then back in a Pairc situation where funders will not pay for legal action and communities can't afford to take it.
- b. Creditors with a standard security and right to sell the land are irrelevant in a Part 3 situation, because land in crofting tenure is near valueless; hence the reason why no commercial lender will land in crofting tenure as security. I don't see the need for such an exercise anyway as the creditor's rights would be identified at due diligence in the sale process and dealt with then, as is normal in any transaction.
- c. Every crofter is a tenant and there can be hundreds on some estates, including many absentees. In particular people may assume that one member of a family is the tenant when in fact it is another. This would be a nightmare. Tenants' rights are clearly protected under crofting law so there is no effect upon their ability to croft by a change in landowner. It seems bizarre that at the moment an estate can be sold to anyone and the first thing that the tenants would know about it would be the change in name on the rent invoice. This presumably would not change but if the community wanted to purchase under Part 3 they would first have to identify every croft tenant.
- d. The sporting interests would be unaffected as any lease would have to be complied with until the end of the term so there should be no need to identify the sporting tenants at point of registration. Once again this is a sale process issue.

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