



SCOTTISH LAND COMMISSION
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TERMS OF REFERENCE OF THE SCOTTISH LAND COMMISSION (BOARD)

December 2016

The Scottish Land Commission (the Commission) is established by Land Reform (Scotland) Act 2016. The Commission has been put in place to review law and policy, and make recommendations to the Scottish Government on matters relating to Scotland's land. The Commission is composed of five Land Commissioners, and one Tenant Farming Commissioner, who shall develop codes of practice and provide support to the tenant farming sector. Working together, the Commissioners shall help to influence future developments relating to the ownership, use and management of Scotland's land, and work with communities throughout Scotland to help them to realise their potential.

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1.0 Structure of the Commission

1.1 The Commission shall comprise of the following:

6 Members (Ministerial appointees), of whom:

- Five land Commissioners
- One Tenant Farming Commissioner

1.2 The staff of the Scottish Land Commission are employees of the public body.

2.0 Statutory Functions of the Commission

2.1 To provide the Land Commissioners and Tenant Farming Commissioner with the property, staff and services needed to perform their respective functions.

2.2 To make such arrangements as are appropriate and practicable for the co-ordination of the performance of those respective functions.

3.0 Statutory Functions of a Land Commissioner

- (a) To review the impact and effectiveness of any law or policy
- (b) To recommend changes to any law or policy
- (c) To gather evidence
- (d) To carry out research
- (e) To prepare reports
- (f) To provide information and guidance

3.1 The Land Commissioners must collaborate with the Tenant Land Commissioner.

4.0 Statutory Functions of the Tenant Farming Commissioner

- (a) To prepare codes of practice on agricultural holdings
- (b) To promote the appropriate codes of practice
- (c) To inquire into alleged breaches of the codes of practice
- (d) To prepare a report on the operation of agents of landlords and tenants
- (e) To prepare recommendations for a modern list of improvements to agricultural holdings
- (f) To refer for the opinion of the Land Court any question of law relating to agricultural holdings
- (g) To collaborate with the Land Commissioners in the exercise of their functions to the extent that those functions relate to agriculture and agricultural holdings.

5.0 General Powers of the Commission

5.1 The Commission may do anything which it considers—

(a) to be necessary or expedient for the purposes of, or in connection with, the exercise of—

- (i) Its functions,
- (ii) the functions of the Land Commissioners,
- (iii) the functions of the Tenant Farming Commissioner.

(b) to be conducive to the exercise of those respective functions.

5.2 In particular, the Commission may—

- (a) enter into contracts
- (b) acquire and dispose of land
- (c) co-operate with any person
- (d) obtain advice or assistance from any person who is, in the Commission's opinion, qualified to give it
- (e) pay any such person such fees, remuneration and allowances as the Commission may determine.

6.0 Conditions of membership

6.1 Members of the Commission are to be appointed by Scottish Ministers, with the appointment lasting up to a maximum of five years.

6.2 Scottish Ministers may reappoint as a member, a person who has already been a member.

6.3 Scottish Ministers must select one of the Land Commissioners to chair the Commission. In the event that no one Commissioner will agree to be the Chair, Scottish Ministers will make the final decision.

6.4 The Commission will have six members. One of which must be the Tenant Farming Commissioner.

6.5 The conditions of appointment of each of the Commissioners are set out in the individual letters of appointment.

7.0 Eligibility for Appointment

7.1 On appointment of the Commissioners, Scottish Ministers must have regard that the Commission has expertise or experience in:

- Land Reform
- Law
- Finance
- Economic Issues
- Planning and Development
- Land Management
- Community Empowerment

- Environmental Issues

7.2 The Chair must inform Scottish Ministers of any void in expertise or experience that may occur.

7.3 At any given time Scottish Ministers should take every reasonable step to ensure that one Commissioner is a speaker of the Gaelic language.

7.4 The Tenant Farming Commissioner must have expertise or experience in agriculture.

8.0 The Chairperson

8.1 The Chairperson, whom has been appointed by Scottish Ministers, shall act as Chairperson of each meeting of the Land Commission.

8.2 If the Chairperson is not able to be present at a meeting, they should appoint an alternative Commissioner to chair the meeting in their absence. If the Chairperson is unable to arrange this, the Commissioners present at the meeting shall elect from amongst themselves a person to chair the meeting. If the Chairperson is unable to attend a meeting, he/she shall give at least 7 days' notice to the Commission.

8.3 The Chairperson of the meeting shall endeavour to achieve consensus wherever possible but, if necessary, questions arising shall be decided by being put to the vote. In the event of an equal number of votes for and against any resolution at a Commission meeting, the Chairperson of the meeting shall have a casting vote as well as a deliberative vote.

9.0 General meetings

9.1 All meetings shall be called Commissioners' Meetings.

9.2 The Commission may convene an Commissioners Meeting whenever it thinks fit; and if a meeting has been requested by two or more of the Commissioners the meeting must be held within 28 days of this request. No less than 4 Commissioners meetings will take place each year.

9.3 All Commissioners and the Accountable Officer must be invited to attend all meetings no less than 14 days prior to the date of the meeting.

9.4 All Commissioners' meetings shall be chaired by the Chair person. If the Chair person is unable to attend the meeting, he/she shall give at least 7 days' notice to the Commission in order that another Commissioner can be appointed to chair the meeting.

10.0 Quorum

10.1 The quorum for a Commissioners' Meeting shall be 3 Commissioners. No business shall be dealt with at any meeting unless a quorum is present (either physically or by audio-visual means)

10.2 No business relating to the functions of the Tenant Farming Commissioner will be discussed if the Tenant Farming Commissioner is not present.

10.3 If a resolution is to be made, no less than 50% of the total number of Commissioners must agree to it. Therefore, if only the quorum is present at a particular meeting, all present must come to a unanimous decision in order to pass the resolution.

11.0 Attendance at meetings

11.1 Commissioners should endeavour to attend all meetings.

11.2 When a Commissioner is unable to attend a meeting, that person should inform the Commission of this, no less than 5 days prior to the day of the meeting.

11.3 If a Commissioner is absent from meetings for a period exceeding 6 months without the permission of the Commission, Scottish Ministers may revoke the appointment of that person.

12.0 Minutes of meetings

12.1 The Commission shall cause minutes to be made of the proceedings of all Commissioners' Meetings and of all meetings of sub-committees, including the names of those present, and all business transacted at such meetings and any such minutes of any meeting, if purporting to be signed after approval, either by the Chairperson of such meeting, or by the Chairperson of the next succeeding meeting, shall be sufficient evidence without any further proof of the facts therein stated.

12.2 A secretary shall be appointed at each meeting by the Chair, and the secretary shall arrange for a record of the proceedings and decisions of each meeting to be made, including the names of those present and in attendance and any declarations of conflict of interest.

12.3 Draft minutes of the meetings shall be circulated within 10 working days of the meeting taking place to the members of the Commission, the Chair and the Accountable Officer.

13.0 Remuneration, Allowances and Pensions

13.1 Remuneration, allowances and pensions payable to members and employees of the Commission are determined by and provided by Scottish Ministers.

14.0 Accounts and finances

14.1 The Commission shall cause accounting records to be kept for the company in accordance with the requirements of Section 19 of the Land Reform (Scotland) Act 2016 and other relevant regulations.

14.2 The accounting records shall be maintained by the Accountable Officer and overseen by the Audit and Risk Committee or otherwise by, or as determined by, the Commission. Such records shall be kept at such place or places as the Commission thinks fit and shall always be open to the inspection of the Chair and the Commissioners.

14.3 The Accountable Officer, scrutinised by the Commissioners, shall manage all funds and assets of the Commission and ensure they are applied towards achieving the purposes and functions of the Scottish Land Commission.

14.4 The Commission shall ensure that any sub-committees adhere to the provisions for accounts and finances set out in Land Reform (Scotland) Act 2016 and the guidance set out in the Scottish Public Finance Manual.

15.0 Alteration to the Terms of Reference

15.1 Any alteration to these Terms of Reference should comply with the following conditions:

- (i) upon the decision of not less than 4 out of 6 of the Commissioners.
- (ii) that Scottish ministers are notified of the proposed changes.

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