



May 2013

## **Nourish Scotland response to the Scottish Government consultation on the Legislative Framework Governing Allotments,**

### **Background**

1. Nourish Scotland welcomes the opportunity to respond to this Scottish Government consultation. Nourish is a membership-based organisation, with over 1000 supporters and is formally constituted as a community interest company. It aims to reconnect producers, growers, retailers, consumers and all who care for local, sustainable food in Scotland. It is working to create a stronger food culture to make healthy, local, seasonal, and organic food available everywhere in Scotland.
2. In general terms, Nourish supports the intention of the Scottish Government to reform and update the law in this area. The current legislation is complex, outdated and does not sufficiently support the efforts of communities or individuals who wish to take advantage of opportunities to grow their own food in a sustainable manner.
3. Nourish is aware that the Scottish Government will be consulting more widely on the provisions for underused or unused land as part of the forthcoming Community Empowerment and Renewal Bill (CERB). Nourish supports many of the proposals previously consulted on, such as the proposed introduction of a community right to use and access unused land – where it can be shown that land, in public or private sector ownership, is unused or underused and the asset owner is not able to show plans for future use. Nourish believes that this power should be used to provide a “community right to grow”, giving communities a right to access unused land and plant flowers, crops or trees.
4. More detailed comments in relation to the law on allotments are provided in the sections below, in answer to the questions set out in the consultation paper.

### **How should allotments be defined?**

5. Nourish notes that the standard size of a current allotment is approximately 200 – 250 square metres.<sup>1</sup> We note that the Scottish Allotments and Gardens Society (SAGS) believe that this size would allow the average family of 2 adults and 2 children to be self-sufficient in fruit and vegetables.<sup>2</sup> This would seem to provide a useful starting point for a new definition, although it may be desirable for smaller plots to also be made available where demand exists.

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<sup>1</sup> Community Growing in Scotland, Towards a Framework for Action, p 5

<sup>2</sup> Scottish Allotments and Gardens Society, Discussion paper on Allotments, available at <http://www.sags.org.uk/weblog/?p=395>

Nourish also suggests that it may be beneficial to update the definition to include reference to the activities that may take place on the plot.

6. Given the changing patterns of land use there may be merit in the legislation empowering Scottish Ministers to make regulations specifying the types of activity to be permitted. For example, regulations might specify that activities such as bee-keeping, poly-tunnels, tree-planting or animal husbandry should be permitted with appropriate safeguards, or be used to establish what types and size of buildings might be allowed. They could also be used to ensure that best practice in land management and food growing is followed, including the promotion of organic growing and avoiding herbicide and pesticide use, in order to promote bio-diversity, protect groundwater supplies and ensure that sites and produce are safe for growers and visitors. Experience in Edinburgh has shown strong public support for organic growing on allotment sites, and all new sites there require ploholders to use organic growing methods.
7. In addition, the opportunity should be taken to clarify whether the legislation applies to privately run allotments, such as restricted access allotments provided by employers to staff or by housing associations to tenants.
8. Finally, Nourish understands that the current legislation does not permit allotment holders to sell any produce. Consideration should be given to whether this ban on the sale of produce is still necessary, or whether it protects the current non-commercial ethos of allotments, where surplus produce is often exchanged or given away.
9. Providing clarity on these definitions would remove uncertainties, clarify the scope of the legislation, reduce potential for local conflict over spatial usage and encourage more effective and appropriate land use.

### **Updating and Simplifying the Legislation**

10. Nourish supports the general overhaul, simplification and updating of this legislation. Specific areas that could usefully be updated and clarified include the arrangements for termination of tenancies or for dealing with circumstances where allotments fall into disuse, determination of a “fair” rent and pursuit of rent arrears, the responsibility for providing access to allotments by way of paths and the provisions for management of allotments by associations.

### **The Role of the Local Authority**

#### *Duty on Local Authorities to provide allotments*

11. Currently, local authorities have a duty to provide a sufficient number of allotments. This appears to have been interpreted in different ways by local authorities.<sup>3</sup> It is clear that, in many areas, demand for growing spaces continues to far outstrip supply.<sup>4</sup>
12. Nourish believes that local authorities should continue to have a duty to provide allotments and that this duty should be more actively enforced. Nourish recommends that local authorities should take steps to more

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<sup>3</sup>Summary of local Authority responses to the Consultation on the Community Empowerment and Renewal Bill available at <http://www.sags.org.uk/weblog/wp-content/uploads/2013/02/CouncilResponsesCERB2013.pdf>

<sup>4</sup> Community Growing in Scotland, Towards a Framework for Action, p 22

definitively establish demand for access to allotments. This could be done either by requiring each local authority to maintain individual waiting lists or asking an already established national greenspace group to maintain such a list on a national basis. However, it should be recognised that these lists are only indicative of unmet demand, as many people do not sign up because of the current long waiting time for allotments and also because the lists may be little publicised.

13. Nourish suggests that where public demand for allotments, as evidenced by such waiting lists, exceeds the supply of green space available by more than 50% then the local authority should be required to make a report to Scottish Ministers setting out the steps it will take to make more land available to meet the excess demand. Nourish understands that it may take some time to identify potential sites, to negotiate with landowners and adapt land for growing use, but suggest that it should be possible to do this within a period of around 3 years. Placing a duty on local authorities to provide access to suitable allotment sites within 3 years would help to concentrate minds, prioritise the issues and reduce delays in gaining access to land.
14. Allotment sites should be within walking distance of where plotholders live, so that they are easily accessible and car use of minimised.
15. Allotments are needed in rural areas as well as cities and towns.

#### *Registers of Allotments*

16. The current legislation also requires local authorities to keep a register of the tenancy, acreage, and rent of each allotment let and provides that this register shall be open to the examination of any ratepayer. Again, compliance with this provision is patchy, especially in relation to privately provided allotments.
17. Nourish notes that the Scottish Government has taken steps to increase the coverage of the land register. Nourish would support the introduction of any measures which would increase the availability and transparency of information about land ownership and use in Scotland. For this reason, Nourish recommends that local authorities should continue to have a duty to maintain and publish such information in an accurate, accessible and up to date form.

#### **Allotments, Planning and Community Growing**

18. Nourish notes that current planning policy requires local authorities to conduct an open space audit and to consider how well that space is meeting their communities' needs. As noted above, the Scottish Government also intends to consult more widely on the provisions for underused or unused land as part of the forthcoming CERB.
19. Nourish is generally supportive of the proposed measures to update and clarify allotments legislation which should in turn make it easier for individuals to obtain access to an allotment. However, it must be recognised that allotments are only one way in which individuals and communities can gain access to land on which to grow their own food. The Report of the Grow Your Own Working Group outlines a number of other ways in which communities can access and manage land, including community gardens, orchards and market gardens and land and garden sharing schemes.

20. Nourish encourages the Scottish Government to work with local authorities to consider how they can actively promote these emerging and creative ways of communities gaining access to suitable green spaces to grow. This should include local authorities pro-actively working with other public agencies, notably the NHS, and with private landlords, to identify sites which may be used for traditional style allotments, temporary allotments, community gardens, or other spaces which may be used to grow. As the GYOWG report states, we need to “explore how the diversity of community growing and grow-your-own approaches can be brought together to develop a ‘growing community’ which grows, uses, sells and eats local produce”.<sup>5</sup> Such an approach would help promote good health (through exercise, mental health promotion and healthy eating), social interaction, regeneration, bio-diversity and sustainable land use.
21. Nourish agrees that, as part of this process, local authorities should be required to publish a strategic plan related to land-use for growing purposes. It would be helpful if the legislation also required local authorities to consult their communities on any such plan before publishing it.

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<sup>5</sup> Community Growing in Scotland, Towards a Framework for Action, p 32