Written Submission by Dalhousie Estates

Having read and reread the Bill, and indeed the Consultation Paper which preceded it, it is clearly the view of the Scottish Government that privately owned landholdings, estates in particular, are failing to deliver public benefits and stand in the way of “fairness and social justice, environmental sustainability and economic prosperity” (Consultation Paper). It is said that too much land is concentrated in too few hands and that landholders can represent a barrier to sustainable development. We find it difficult to understand on what evidence this conclusion can have been reached as we believe the opposite to be the case in the great majority of circumstances. There are other potential barriers to development which should not be overlooked including constraints due to Planning, infrastructure and availability of funding. It is not easy to see how change of ownership alone could overcome barriers to the sustainable development to which the Scottish Government aspires in this Bill and its other policies.

Is there any other business sector in Scotland which is regarded with such hostility? Is it truly the intention of the Scottish Government to marginalise and disenfranchise a large proportion of those who live and work and make up communities throughout rural Scotland for there is little doubt that such a punitive approach to private land ownership will be likely to have a negative impact on investment, employment and some rural communities?

We find it difficult to comment on some aspects of the Bill where the intention is that the primary legislation will rely on secondary measures by Ministers to define the detail of what is intended. Indeed the overall impact of the proposals is hard to envisage owing to the broad range of issues covered and the numerous cross references to other legislation. Some definitions are required, for example for "sustainable development" and "public interest".

Notwithstanding the concerns expressed above Dalhousie Estates has no difficulty with the requirement for greater transparency and community engagement. We believe that we have a good record in that respect and submitted a public interest audit with our response to the consultation paper (copy attached for reference). We also welcome the increasing diversity of ownership provided that it adds value in terms of employment, environmental management, economic productivity and social benefit. Change that adds to prosperity is to be welcomed but it is essential that a full assessment of the impact of the Bill proposals is made prior to enactment of legislation to ensure that the measures proposed will enhance the rural economy and the lives of those who live in rural Scotland. Simply drafting legislation in the hope that this will happen, but with no evidence that it will, is not good enough.

Notwithstanding our general misgivings and wishing to be constructive, by way of specific comment:

Part 1 – Land rights and responsibilities statement and Part 2 - The Scottish Land Commission

We note this proposal with interest. A Commission could have a valuable role to play and a Land Rights and Responsibilities Statement should add useful clarity if it sets out what success will look like.
To command confidence those appointed by Scottish Ministers to the Commission should be independent, as proposed, and all relevant interests in the ownership, management and use of land should be fairly represented.

In regard to the appointment of a Tenant Farming Commissioner, we fear that this, along with other agricultural holdings proposals in the Bill (Part 10), may simply add further to the complexities of the contorted landlord/agricultural tenant legislative framework and would have preferred to see a move towards freedom of contract which we believe would have led more surely to a recovery in the tenanted farming sector which is much needed.

Dalhousie Estates has few remaining let farms. Our policy for many years has been to sell privately to those tenants who have expressed a wish to own their own farms. The proceeds have been invested in diversifying the estate business as a result of which we have been able to double the number employed to around 80.

Part 3 - Information about the control of land etc.

No comment.

Part 4 - Engaging communities in decisions relating to land.

We are in favour of community engagement on matters of significance. Guidance on this from Scottish Ministers would be helpful. There should be a proviso that consultation should not unreasonably impede or delay business decisions.

Part 5 - Right to buy land to further sustainable development

We cannot support this proposal to acquire property compulsorily on grounds which the Bill fails to define sufficiently, notwithstanding the compensation and valuation and appeal provisions set out. On this part of the Bill in particular we are concerned that so much appears to be left to Ministerial discretion and is not to be set out in full detail in the primary Act.

Part 6 – Entry in Valuation Roll of shootings and deer forests

We oppose this proposal for the following reasons:

- The additional costs involved are likely to lead to job losses and be detrimental to rural communities which the Bill sets out to support. It may indeed work against some objectives of this draft legislation and of Scottish Government rural policy.

- The lack of an economic and social impact assessment in advance of the legislative process.

- Uncertainties in regard to the extent and types of land holdings which will be assessed as sporting subjects and the valuation approach to be used; also whether allowances will be made for deer culled for management purposes with no sporting income.

- Uncertainty as to the application of the Small Business Bonus Scheme
• The risk that liability to pay business rates will disincentivise sporting use which generates income to cover the costs of sustainable management of the environment. In particular the management and control of deer populations may be more difficult to fund.

Part 7 – Common good land

No comment

Part 8 – Deer Management

We note the proposed additional powers of intervention for SNH and have no comment to make.

Part 9 – Access Rights

No comment.

Part 10 – Agricultural Holdings

We note the proposals and in particular those in respect of the Modern Limited Duration Tenancy. We are sadly not convinced that these additional measures will halt the decline in the tenanted sector which could have been achieved with a less prescriptive approach. In particular, extending rights of succession without reserving a right of approval to the owner of the land is inequitable and will act as a disincentive to the creation of new letting opportunities.

Acknowledging the history which has led to the present highly complex arrangements in respect of agricultural tenancies we feel it to be inevitable that, at some future time, a fresh start will be necessary to align the statutory framework more closely with business tenancies in other industries and allow the parties concerned to enter into contractual terms suitable to both. Thus these proposals may be construed as an opportunity missed.

In conclusion, while we wish to give credit to the positive aspects of this Bill, we are concerned at the lack of detail and the absence of a cost/benefit approach which demonstrates where the measures may add value to the rural economy and to rural communities. It must be said that we are also uneasy at the rhetoric employed by some. It is our firm belief that, while there is room for improvement, particularly in terms of transparency and communication, land management businesses are at the heart of the rural economy and, with encouragement and support they can further contribute to rural prosperity and to delivering the Scottish Government’s rural strategy.