Written submission from Miles Montgomerie

Part 1

Land Rights and Responsibilities

The Bill has not addressed or clarified many vital elements that need to be considered.

1. The impact of the proposed changes to food production. With the increase in input costs, are smaller landowners going to be able to sustain a long term sustainable strategy. Neighbouring European countries are showing a collective trend towards increasing land holding size to cope with these additional costs.
2. The impact on currently financially sustainable farm and estate businesses.
3. The potential impact on tourism.
4. A strategy for future investment in Rural Communities.
5. The impact that smaller landholdings will have on the overall biodiversity and long term productivity of farms. When farms are put under pressure, it can often be necessary to use short term methodologies to remain solvent at the expense of longer term biodiversity.

Part 2

The Scottish Land Commission

Local research has shown that on average only 10% of a large estate in Scotland is not currently subject to external controls such as designations, local plans, environmental obligations or long term contractual arrangements. On this basis, it appears any additional management would only be increasing the cost for a questionable benefit.

The creation of the Commission, five Commissioners and Tenant Farming Commissioner will be a considerable annual cost (£ 1.3million+ p.a.).

Implementation of the Codes of Practice will lead to increased costs to Tenants and Landlords as additional professional advice will have to be sought. Most Tenants and Landlords have a good working relationship and these additional costs are a real concern.

What is required is to review what is already there before adding an extra layer of bureaucracy.
Part 3

Information about Control of Land

Clarification is needed as to possible Regulations in relation to access of information.

Part 4

Guidance on Engaging Communities and decisions relating to Land

Good practice is the key, not Legislation. There is a real concern as to what is appropriate and as to when Community engagement would be required. The Bill offers no guidance on this. The day to day business operation of an Estate or Farm should not be impacted by a requirement to engage on minor issues.

Part 5

Right to Buy Land to Further Sustain Development

Before this is implemented, a prerequisite may be to understand the successes and some of the shortcomings of the first round of Right To Buy. These communities have now been operational for a number of years and will have at least three to five years of accounts. There is anecdotal evidence that, although there have been many successes in these areas, there is also a concern that the elements of the built heritage of Scotland are under threat from community ownership and conversely there is a raft of anecdotal evidence that show that private ownership in relation to houses of national importance show a level of dedication and financial inputs that far outweigh any short medium term capital appreciation. Of course, there will be exceptions in both these cases.

It is evident that existing large–scale Community Ownerships have not been fully assessed for financial viability. There is a lack of transparency in terms of public funding on an ongoing basis being made to these community ownerships, through Government, Local Government and the EU. A requirement in the Bill should be for the Land Commissioners to produce a fully audited report on costs of large-scale community ownership.

The other issue is once a community has bought an area, there is an unwillingness to support the ongoing maintenance and investment in that asset. There is a lack of clarity as to the definition of sustainable in the Right To Buy Land for sustainable development.

The legislation should not make it possible for others to forcibly acquire the best parts of another person’s assets to the detriment what remains, potentially making the overall holding unsustainable.
Excluded land must include garden and curtilage.

There is considerable scope within the Draft Legislation for misuse. i.e. a community fronting a third party purchaser to acquire a commercial development.

Drafting seems to indicate that commercial tenancies are included. If so, this will have a very negative impact on investment in Scotland.

Community Bodies

A clearer definition on Community Body would benefit this point as to the definition of a Community Body and their financial viability through the publication of regular financial statements and the amount of public subsidy. Public benefit must be clearly demonstrated on an ongoing basis. How is any disposal of a previously acquired asset by a Community dealt with?

Right to Buy

A definition of Public Interest is required.

Compensation must reflect true open market value.

Almost all the information is available with existing agencies, government or otherwise. Very few houses or land holdings are not currently registered on one database or other. A few simple processes would cost effectively allow an independent evaluator to access this information and collate the overall picture for the Scottish Government. Once you have this information, it will become clear which processes and practices require updating and which do not. There is a very real danger that without this information, decisions made based on the existing information will have serious unintended consequences.

Part 6

Repeal of Exclusion of shootings and deer forests from valuation roll

1. What Valuation Method will be employed by local authority Assessors in establishing net annual value?
2. How will local authority Assessors differentiate between deer culled for sport and deer culled for management purposes? Relief must be given for management culls and culls undertaken in the public interest. Some definition is therefore required that reflects non commercial activity.
3. Financial impact of business rates on sporting rights. Any additional costs will have a negative impact and disincentive to maintain deer management. A detrimental effect on many marginal Local Communities, in particular many community owned estates, which have very few alternative sources of non grant income.
4. Will business rates apply to all land, including public and private? Large areas are owned by Government and Agencies (Forest Enterprise Scotland) as well as Charities.

5. Will sporting rights qualify for Small Business Bonus Scheme (Scotland)? How will they be aggregated with other business activities within the same business?

In addition, we would be opposed to the reintroduction of sporting rates as it is doubtful that it would have any net benefit to Government, which was the main reason that they were abolished. The impact, in particular, on remote communities would be considerable.

In reality, most deer, shooting and salmon fishing activity operate at a loss. Any additional cost burden will only have a negative effect on employment and maintenance.

Notwithstanding the above, we believe that there is an opportunity for the reintroduction of business rates for sporting rights to have a positive effect, to act as an incentive to sustainable deer management rather than as a disincentive. We would therefore propose that relief should be available for sporting rights which are managed in a way which meet relevant public interest criteria. For example a landholding which participates in a Deer Management Group for which there is an effective deer management plan, endorsed by Scottish Natural Heritage, might qualify for relief. This would have the effect of promoting collaboration, furthering the public interest and strengthening the voluntary approach to deer management. Appropriate use of reliefs would also be a powerful mechanism for ensuring continued and appropriate management of designated sites, leading to improvements in habitat condition where necessary.

In addition, in the situation where the business rates have no benefit to the owner and where in practice the owner takes on a number of roles that the council would, such as snow clearing, etc.

Part 8

Specifically relating to Deer Management. The current structure of Deer Management Groups and Deer Management Plans are working effectively, in compliance with SNH.

Part 9

Changes to Core Path Legislation. There should be greater scope for landowners to make applications for amendments to Core Paths where it is evident that the route
has significant impact on farming and forestry management and safety and as a consequence are inappropriate for public use (e.g. a long a major logging route or cattle handling area).

There has been a recent increase in public liability insurance and it is important that the safety of public access is paramount.

**Part 10**

**Agricultural Holdings**

Further flexibility is needed in the Legislation to encourage investment in Agriculture as the farming industry has changed dramatically in relation to food production.

Removal of the Registration of Right to Buy is an error. A deemed Right To Buy only undermines the generally very good Tenant/Landlord relationship and leads to lack of investment.

Since the introduction of the Right to Buy, inward investment to Scotland has declined and as a consequence, the tenanted sector.

Sale to a third party, unless agreed by the Landowner, should not be included in the Bill.

There is a conflict if the valuer and person appointed to sell land is the same person.

Chapter 5: Assignation and succession of Agricultural Tenancies. Widening of these rights will be a disincentive to investment. This is counterproductive to the aim of encouraging the letting of land.

The free letting of land between farmers has been instrumental in allowing farmers to increase their specialisation and improve outputs. Where the freedom to let both short and long term is impeded, there will be quantifiable changes to the efficient production of food in Scotland.