Written submission from James Galbraith

Land Reform (Scotland) Bill

Further to the recent publishing of the Land Reform (Scotland) Bill I now write with written evidence as follows:

1. **CLAUSE 9 (1) ELIGIBILITY OF MEMBERS TO THE SCOTTISH LAND COMMISSION**

It is surprising that the Scottish Ministers are not required to consider expertise or experience in land management as part of the overall skill / knowledge base of the Commission. This, in my opinion, is the fundamental expertise required to (i) enable the commission to act in a practical way and (ii) to gain the respect of the community over which it will exercise its powers.

There is a real prospect that the SLC becomes a bunch of boffins who have lots of ideas but no idea as to their relevance and practicality in the real world.

2. **TENANT FARMING COMMISSIONER**

I welcome the appointment of the TFC so long as the person appointed has the requisite experience and acts in an entirely impartial way.

3. **PART 5 - RIGHT OF COMMUNITIES TO BUY LAND TO FURTHER SUSTAINABLE DEVELOPMENT**

There seems to be no definition of “sustainable development”.

Without such a definition it is difficult to understand how a community could exercise such a right.

4. **PART 6 – ENTRY IN VALUATION ROLL OF SHOOTINGS AND DEER FORESTS**

Having experienced with the rateable value of sporting before they were excluded from non-domestic rates, I am of the view that the cost of administration is likely to far exceed the value of tax raised. It will cause considerable difficulties for assessors and the fact that it will apply whether or not the shooting and stalking rights are exercised will bring the measure in to disrepute in the rural communities where they are applied.

The rural areas in which most tax will be payable are the most fragile economically and to increase costs in these areas will challenge the viability of the communities and employment amongst them.

5. **MODERN LIMITED DURATION TENANCIES**

I am surprised that, after the expiry of the term of an MLDT, that the tenancy continues for a further term of ten years. Given the principle of tacit relocation in Scotland, I would have thought that TR should apply and the tenancy would continue
until the requisite notices were served rather than the tenancy running for another ten years. What if the tenant wants out – is he stuck in it for ten years?

6. CONVERSION OF 1991 ACT TENANCIES INTO MLDTs

Generally, I welcome the proposal although the bill is remarkably light on detail of how conversion will operate. The duration of the MLDT to which a 1991 Act tenancy converts and the other terms which apply will be fundamental as to whether the proposal is acceptable.

I note that the tenant will have the right to dispose of his MLDT arising as a consequence of conversion but the landlord should have the right to approve the prospective assignee of the lease or meet the terms under which the assignee would take on the lease (ie have a right of pre-emption to acquire the lease on equal terms).

7. SALE TO TENANT OR THIRD PARTY WHERE LANDLORD IN BREACH OF ORDER OR AWARD

Where a forced sale is effected, the forced seller should have right of pre-emption to acquire the property in the event of its subsequent sale.

8. RENT REVIEWS

I note that in determining the appropriate rent for an agricultural holding the Land Court must have regard to “the open market rent of any surplus residential accommodation on the holding provided by the landlord”.

I do not understand why such regard only applies to “surplus accommodation”. I think it should apply to all accommodation provided by the landlord. The 2003 Act provided that tenants were not obliged by any residential clauses within leases and there is now no requirement for tenants to live on the farms they rent. If, by choice, a tenant decides to live on a holding, the landlord’s provision of the house should be recognised at rent review.

9. ASSIGNATION AND SUCCESSION

The proposal within the bill widens substantially the class of person to whom a lease could be assigned, bequeathed or transferred on intestacy. In my view, this is unwarranted extension which is to the significant disadvantage to the landlord and is being applied (i) retrospectively and (ii) without requirement for the individual to have any connection with the holding prior to assignation or succession.

10. COMPENSATION FOR TENANT’S IMPROVEMENTS

I approve the proposed amnesty for tenants to regularise the position relating to improvements which they have previously carried out without obtaining appropriate prior consent.