Written submission from Ballogie Estate Enterprises

PART ONE
It is unfortunate that the Scottish Ministers have not prepared, even in outline, a Land Rights & Responsibilities statement in advance of this important Land Reform legislation. I have no objection to the principle, but it is noted that the secondary legislation is going to be more important than the primary legislative statement.

PART TWO

Chapter One - Scottish Land Commission
It is stated that the Land Commission is a body corporate. However, the full legal status and powers of the proposed Commission is unclear. The Commission is to be established by the Land Reform Act and it can be reviewed by Scottish Ministers independent of Parliament. While it is clearly laid out that it must adhere to its own strategic plan and other regulations, the Commission itself is to set its own objectives. See 6-a1. It is not clear who has the authority to terminate the Commission, if that becomes necessary.

It noted that the Land Commissioners have the right to be concerned with all issues of land ownership and land management and use and that includes urban as well as rural land.

Chapter 3 – Tenant Farming Commissioner
The appointment of the Tenant Farming Commissioner is welcomed.

PART THREE

Right of Access to Information of Persons in Control of Land
1. There should be a proper Land Registration system throughout Scotland.

1.a. The Scottish Government has already indicated that it hopes to see complete Land Registration throughout Scotland by 2020. This is unlikely to happen unless there is a much more direct approach taken to insuring that all land is registered. This includes all urban land as well as rural land.

2. Surely a prime function of the Land Commissioners should be to advance the process of Land Registration throughout Scotland? It should be increasing unnecessary for the Scottish Ministers to have special powers to access information, which should be in the public domain in any case.

3. There is a clear connection between Land Registration and the advancement of the Scottish Government’s land use strategy and I assume that this would be part of the remit of the Land Commissioners.
PART FOUR

Engaging Communities in Decisions relating to Land
There already is a considerable level of engagement with communities, especially with all aspects involving planning approval. All 20-year Forest Plans and the 10-year revision of Forest Plans have to go out to Public Consultation and any variation to plans requiring Forestry Commission approval have to be put onto the Forestry Commission website.

PART FIVE

Sustainable Land Register
I do not understand the Sustainable Land Register that the Keeper has to maintain. It is unclear what kind of land for what reason can be compulsory purchased.

PART SIX

Entry and Valuation Roll for Shootings and Deer Forests
This will require the local Assessors to make an assessment of the shooting value of all land in Scotland, including the foreshores and much that will be semi-urban areas. There is no definition of “return in so far as excisable.” In my opinion, all businesses should make a contribution to the local economy through the rating system. It is inequitable to pick on one particular activity and to impose non-domestic rates when other activities are not rated. It is also important that such rates, collected locally, should be used to the benefit of the local services provided by the local council and not appropriated for the uses of central Government. It is unclear what the Land Reform aims of the Scottish Government are making to the valuation of shooting and deer forests in Scotland. The re-imposition of sporting rates on shoots will not make much impact on the attitudes of people who have substantial wealth outside of their shooting business. However, those people who are running sporting businesses may be severely penalised by the re-imposition of sporting rates. The logic is that rating shoots may remove the smaller operations and force shoots to combine and putting them into larger units and into the hands of fewer individuals. I do not think that this is what the Scottish Government intends.

Deer Forests
At a time when the Scottish Government is encouraging more effective deer management throughout Scotland, the imposition of sporting rates on deer management might severely hamper these culling or deer management operations. In the wording of the Bill, it is the re-imposition of sporting rates on deer forests. However, that is something that has, in the past, defied clear definition and there is nothing in this Bill which indicates that there will be a clear distinction between a sporting operation and a deer management operation for environmental and largely forestry requirements.
PART SEVEN

Common Good Land
No comment

PART EIGHT

Deer Management
No comment

PART NINE

Access Rights
No comment

PART TEN

Agricultural Holdings

Chapter One – Modern Limited Duration Tenancies
No comment

Chapter Two – Tenants Right to Buy
Agreed

Chapter Four – Rent Review
In all the clauses regarding the new leasing arrangement, no reference at all is made to the role of the Tenant Farming Commissioner.

Chapter Five – Assignation of the Succession of Agricultural Tenancies
I think this is giving a very broad range of class of person to whom a Tenancy could be assigned. While I understand the logic of reference to the Successions Scotland Act 1964, I would request that this issue is given further consideration.

While there is a lot of sense in the proposed amnesty of Tenancy improvements, there must still be a strong right for an Owner to object to any improvement which adds little or nothing to the value of the farm or which have no long-term sustainable use.