Written submission from Leys Estate on Land Reform (Scotland) Bill

Part 1 – Land Rights and Responsibilities

This statement is not necessary, but if the Scottish Government feel that it is necessary, we would support it subject to it being relevant, balanced and applicable to all of Scotland so as not to put an unfair burden on certain sections of Scotland’s society.

Part 2 – The Scottish Land Commission

The principle of a Land Commission seems sensible, but the remit of the Commission needs to be clearly defined. The appointment of Commissioners with appropriate knowledge and experience is key and this must include a Commissioner with experience of land management issues as this is central to the success of the Commission.

Part 3 – Information about Landownership and control in Scotland

We support in principle the proposals outlined in this section of the Bill to provide openness and transparency in landownership as there is nothing to hide. However, we feel there is no requirement for land value data as value is subjective and does necessarily reflect size or productivity.

Part 4 – Engaging Communities

We support this part of the Bill, but would like to point out that landowners are part of the community anyway and it should not be seen that there is a separation between landowner and community. Engagement however, should not be seen as co-decision making and it must be seen as a two way process.

Part 5 – Right to Buy Land to Further Sustainable Development

We do not support this part of the Bill in that there are already sufficient powers available. The definition of ‘community’ is too wide and as stated before landowners should be seen to be and are actually part of the community too. There does however, need to be sufficient safeguards introduced to prevent cherrypicking of assets and consideration given to the wider impact of land acquisition on remaining assets. The main barriers to rural development are actually planning constraints and finance rather than landownership and it might be more appropriate to look at these barriers rather than landownership. Lastly, there is no definition of what ‘sustainable development’ is.

Part 6 – Sporting Rates

We not support this proposal at all. History shows that the cost of administering this proposal is very likely to far outweigh the amount of tax raised. It is also out of alignment with other business rates that it appears that it is proposed that sporting rates may be payable regardless of whether they are exercised or not. If other rural premises are unoccupied then they benefit from an exemption, so why should it be any different for sporting rights. There has been no economic impact assessment undertaken on the effect of this proposal. Therefore there is no cost benefit analysis
done which would show any gain in revenue would be far outweighed by the loss to fragile rural economies due to increased cost of running these rural sporting businesses. This undermines one of the goals of the Scottish Government of sustainable economic growth and sustainable land management.

Part 7 – Common Good Land

No specific comments

Part 8 – Deer Management

No specific comments apart from there are already good deer management systems in place

Part 9 – Access Rights

No specific comments

Part 10 – Agricultural Holdings

General Comment – The constant review and consultation with Agricultural Holdings Legislation is causing considerable frustration and uncertainty within the sector. This is leading to a lack of confidence by both tenants and landlords resulting in a lack of land being available to rent and capital investment being curtailed by both parties. There needs to be some closure on this issue and a clear message to the sector that there will be no more tinkering with legislation and both parties will then know where they stand and can make long term decisions which they can’t at present.

1- Modern Limited Duration Tenancies

The termination of the proposed MLDT’s needs careful consideration as it should align with the principle of tacit relocation as is common in Scotland.

2- Conversion of 1991 Act Tenancies

In general, this proposal is acceptable but there needs to be more detail and clarity provided about some aspects i.e. duration of MLDT on conversion which should be 15 years which is more appropriate and the landlord should be included in the decision on any new tenant. The landlord must also have a right of pre-emption.

3- Tenant’s Right to Buy

We don’t agree with the proposal that all secure tenant’s should have pre-emptive rights by default. We think that registration is vital to ensure that the correct land is registered, but we think that the requirement to re-register every 5 years should not be required. Once registered, it should stay registered. There also needs to be clarity as to when the right is triggered as it is currently unclear as to what the trigger point is.

4- Sale where a Landlord is in Breach
This is acceptable subject to there being parity between landlord and tenant on the process and notice provisions. Being forced to give up a tenancy is not as onerous as being forced to give up ownership. Where a forced sale is affected, the forced seller should have the right of pre-emption to acquire the property in the event of a re-sale.

5- Rent Reviews

It is crucial to get the rent review process right as it appears to be the cause of some of the perceived problems between landlord and tenant. However, on our estate, there have been no such problems, with agricultural rent reviews being carried out amicably and with fair rents set. We are not in agreement about the statement relating to surplus accommodation as in our view any rent review should take into account all accommodation.

6- Assignation and Succession

We do not agree with the proposal to substantially widen the class of person to whom a lease can be assigned, bequeathed or transferred on intestacy. This proposal significantly disadvantages the landlord as effectively, he will never be able to recover the holding. This will fundamentally change how landlords view renting out land and will reduce the amount of land coming to the rental market. This is a proposal that will do the exact opposite of what the Scottish Government want which is to have more land available to let.

7- Improvements by the Landlord

We think it is right and fair that there is an amnesty on tenants notice for improvements where they have not previously obtained appropriate prior consent.