Written submission by William Berry

1. I have been closely involved for about 50 years in the management of a small family estate in the lowlands close to the urban fringe. The land extends to about 425 ha, including about 320 ha farmland, of which 290ha is farmed in hand by the family and 30ha is let, and about 100 ha is woodland. There are a number of let houses, and there is substantial public access.

2. Over a period of nearly 40 years until about 10 years ago, as a member of a firm of lawyers in Edinburgh, I was involved in advising owners and tenants of land in different parts of Scotland with landholdings ranging in size from just a few acres to very large areas.

3. I am limiting my comments on the Bill to a few points only, as follows:-

   a. General. There are too many areas where important matters are not defined in the Bill but are left to be dealt with by regulations to be made by Ministers.

   b. The Land Commission. (Chapter 1. Section 9). As regards membership the primary requirement should be that a majority of the commissioners should have first-hand practical (not just academic or theoretical) experience of land management. This seems inexplicably to have been omitted.

   c. Engaging with Communities. (Part 4 Section 37 et seq). It is desirable to ensure that the body to be consulted as representing the community is one truly representative of the community such as the Community Council, and to safeguard against an inappropriate body trying to usurp that status, such as a self-elected group of activists representing a particular viewpoint or interest.

   d. Sporting Rates. (Part 6. Sections 66 and 67). I strongly oppose the proposed re-introduction of sporting rates. There is likely to be only marginal financial benefit (if any) in income raised in relation to the costs of administration. It is likely to discourage occupiers from positively managing their sportings, thereby risking the loss of the conservation and environmental benefits which such management brings. If the proposal is kept, it is important that the rateable value reflects only the unimproved value of the sportings, excluding expenditure on managing and enhancing them, to avoid the result I fear as in the preceding sentence. This result would certainly apply in our own case where carrying out vermin control, conservation and environmental enhancements, and maintaining wild bird cover etc already involves significant cost with only minimal income to offset it.

   e. Agricultural Tenancies. ((Part 10). I am very much in favour of tenancies continuing to be one of the structures under which farming can be carried on in Scotland. It seems rather bizarre to me, however, that in the modern and sophisticated farming world, there is a political reluctance to allow freedom of contract, which is the norm in other business areas. Continued
political and legislative interference makes it very risky for a landowner (particularly one with only one holding, or a small total amount of land) to consider granting a tenancy. And thus new tenancies for aspiring young farmers are likely to remain far too few. For similar reasons I oppose the proposals to widen the classes of assignees and successors. These will significantly weaken the rights of landlords, and there is no certainty that they will lead to better management of the land and buildings involved. If despite the above, the proposals are kept as at present drafted, then I feel strongly that in relation to an assignation to a non-near relative, the landlord should be given a pre-emptive right to be the assignee for the same money and on the same terms as the third party assignee. (This would be on the same principle of fairness as in the tenant’s pre-emptive right to buy on a sale of the holding).

f. Rent Reviews. (Part 10. Chapter 4. Section 82.Schedule 1A Clause 7(4)(b)). The determination of the fair rent should take into account the open market rental value of all the residential accommodation on the holding – not just the “surplus residential accommodation”. (It is absurd that in some cases the rent of a holding including the land, house and buildings is less than what the rent of the house would be on its own.)