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Dear Edward,

Land Reform (Scotland) Bill

Thank you for the opportunity to provide evidence on the Land Reform (Scotland) Bill on 18 February and for your letter the following day. My responses to the points raised in your letter (which I have repeated in italics) are set out below.

Statutory process for giving notice of resumption

Some specific concerns have been raised with the Committee about the statutory process, including whether the 12-month notice period can override existing contractual arrangements. Do you think there are any adjustments or clarifications needed to the process based on stakeholder concerns?

The changes will only apply to land resumed after the Bill becomes law and I consider that the changes are both necessary and fair.

In relation to the 2003 Act tenancies, particularly the Limited Duration Tenancies which have long term lengths, the Tenant Farming Advisory Forum (TFAF) members were asked to come up with alternative proposals and were unable to agree on alternative valuation approaches for these. I am of course willing to receive further views from TFAF if it is possible to reach an alternative view that works for all TFAF members.

You will also wish to be aware that I have considered the suggestion by stakeholders that a valuer should only be appointed by the Tenant Farming Commissioner in the event of both parties failing to agree a valuation. I will consider whether any changes are required to the Bill so parties can agree a valuation and that the Tenant Farming Commissioner would only appoints a valuer as a last resort.

Compensation for improvements

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Part 4 of the new schedule on compensation for improvements lists improvements that are deemed to facilitate or enhance sustainable and regenerative agriculture. Stakeholders have suggested that this adds an element of confusion, because, unlike Parts 1, 2 and 3, Part 4 does not clearly specify which listed improvements require consent or notice for compensation to be available. Can you clarify the purpose of including Part 4 in the new schedule?

As the Committee is aware, Schedule 5 is no longer flexible enough to facilitate the improvements that should be encouraged in order to help tenant farmers play their part in tackling the twin climate and biodiversity crises. We have modernised the descriptions of improvements in Schedule 5, taking a principles based approach to Parts 1 and 2 and setting out a list of improvements which facilitate or enhance sustainable and regenerative agricultural production in Part 4. These changes aim to support tenant farmers to undertake activities that deliver sustainable and regenerative agriculture in the future.

I am aware that stakeholders are seeking increased clarity around Part 4. I am listening to stakeholders' proposals around how the various elements identified in Part 4 could be handled differently.

Do you agree that there may be scope for confusion, and if so, have any solutions been considered?

I have already asked my officials to assess the proposals provided around how the improvements listed in Part 4 could be treated and I will consider how best to address those asks as the Bill moves forward.

Compensation for improvements is calculated on the basis of its value to an incoming tenant. How might this be calculated for some of the new types of environmental improvements where the value is not as well-established?

As indicated at Committee, consideration is already underway by professional organisations to start to assess the economic value of environmental land based activities, and my officials are aware that work has already started within the UK on this.

Standard claim procedure

Stakeholders have suggested that the standard claim procedure should be a legal backstop rather than a process that must be followed in all circumstances, especially in relation to small and uncontroversial claims. What is the Scottish Government's intention with these provisions?

I know that some claims are settled informally. I also know that claims can take too long, and that not all agreements are fair to both parties. Legislative change is needed to ensure that tenant farmers with no successors are able to go through waygo (the technical phrase when a tenancy comes to an end) in a timeous way to enable both the tenant farmer and their landlord to receive any sums due to them within a fair timescale.

It is not acceptable for tenant farmers to wait for years to receive sums due to them, as can sometimes be the case; this is an already emotional process for the exiting tenant and delays in settling claims can prevent some individuals from moving on with dignity.

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I will give consideration to stakeholder evidence provided during the Committee's consideration of the Bill at Stage 1.

Several stakeholders suggest that the timescales for valuations in the standard claim procedure may not be appropriate in all circumstances as some parts of the claim might not be known until the last minute. For example, standing crops or potential unforeseen damage changing valuations late in the day. Has the Scottish Government considered this issue?

The measures in the Bill have the effect that Ministers could by regulations apply the new standard procedure to particular types of compensation. They would be able to modify the procedure on a case-by-case basis when doing so, as appropriate to the type of claim.

It follows that I will of course give further consideration to stakeholders' views on the timescales for valuations, including elements relating to items that are valued at the end of the process.

It is nonetheless only right and fair that waygo comes to an end sufficiently quickly for end users, and it is not a process that should be excessively drawn out leading to significant professional expenses.

Rent reviews

The Scottish Land Commission has advised that the Bill does not carry forward some of the important provisions currently included in section 13 of the 1991 Act, such as those relating to regards and disregards and recommends these are included in any new provisions. Why has the Scottish Government chosen to amend the 2016 provisions which have never come into force, rather than amending section 13 in the 1991 Act that is currently in force?

Parliament has of course already agreed the changes made by the 2016 Act. I consider that it is better to build on those changes rather than roll back to section 13 of the 1991 Act.

I am aware that stakeholders have raised points about regards and disregards, which I will consider.

In addition, I am aware that some stakeholders had concerns over use of the term 'Similar holdings' rather than 'Comparable holdings' in relation to the rent provision. Our aim is to ensure the legislation is clear, so if there are any concerns about the wording of this provision in that regard then I would be happy to consider these ahead of Stage 2.

Follow up evidence

There were also a number of points raised in the evidence session that you or your officials agreed to come back on.

- *The cost range identified for preparing a Land Management Plan*
The Committee raised concerns that the costs for preparing a Land Management Plan may be as high as £20,000. Based on information provided from a range of different types of landowners during consideration of the [Business and Regulatory Impact Assessment on the Bill](#), my officials have estimated that costs of drafting a Land Management Plan would be between £3,000-£15,000 per plan. This is subject to the final requirements for plans to be set out in secondary legislation.

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The upper range of this cost range was based on detailed plans that particularly complex landholdings have been subject to in other circumstances. In reality, many owners of large-scale landholdings are likely to have already carried out work to determine some of the information required by the plan. The costs of developing a plan for these landholders will therefore be reduced.

Some costs will be associated with consulting on and publishing the plan. The requirement to engage communities on the plan will not always require the procurement of professional services. As you have heard in your evidence, many landowners already have strong relationships with their local communities and will be able to engage with communities on the plan through existing channels and relationships.

- *The Scottish Land Commission's principles and any associated guidance on good community engagement*

The Land Reform (Scotland) 2016 Act places a requirement on Scottish Ministers to publish a statement on land rights and responsibilities. The [Land Rights and Responsibilities Statement](#) (LRRS), as revised in 2022, comprises a Vision and seven Principles and is supported by advisory notes and case study examples. Principle 7 sets out that 'There should be meaningful collaboration and community engagement in decisions about land.' The accompanying [Advisory Notes](#) set out that broad and meaningful engagement on decisions taken in relation to land and buildings is a key aspect of responsible management and use of land. The Scottish Land Commission has also developed a series of protocols to help people to understand and apply the principles, and their work helped inform the 2022 review.

The Scottish Government published its [Guidance on Engaging Communities in Decisions Relating to Land](#) in 2018. It is a requirement of section 44 of the [Land Reform \(Scotland\) Act 2016](#) and is part of the Scottish Government's commitment to promote Principle 7 of the LRRS. The guidance was reviewed in 2021 and is due to be reviewed again by March 2026.

The primary aim of the guidance is to help ensure that people have the opportunity to be involved in decisions about land that affect them. It contains guidelines on when and how engagement should take place and with whom. However, it is neither prescriptive nor exhaustive, and engagement should be tailored to meet local circumstances.

This guidance is for those with control over land, covering both rural and urban Scotland. It is for all private and public sector owners of land and buildings, including individuals, companies and trusts, non-governmental organisations, charities and community owners. It also applies to tenants, of any sort, where they have control over land.

The Scottish Land Commission were involved in developing the guidance and also support its use in practice. More details on the Commission's work can be found on the ['Community Engagement – Good Practice'](#) section of its website.

- *The differences in capital funding between crofts and small landholdings*
- *Information on the disease risk of avian flu produced by the Chief Veterinary Officer*

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Further information on both of these points is being prepared and will be sent to the committee as soon as possible.

- *Whether the Bill would be an appropriate vehicle to address concerns in other Acts, for example relating to grouse moor licensing in the Wildlife Management and Muirburn (Scotland) Act*

The Scottish Government and NatureScot have had positive discussions with stakeholders on this matter and we are all keen to ensure the legislation works in practice and has the intended effect. As I touched on during my committee appearance, NatureScot has added a condition to licences to enable them to revoke or suspend a licence where there is evidence of raptor persecution, connected to the grouse moor but outside of the licensed area. This condition has the effect of ensuring that the operation of the 16 AA licences, as far as raptor persecution offences is concerned, is as originally intended.

- *Further information on the process for resumption when the tenant wants to diversify – specifically, around valid purposes for resumption and circumstances where the landlord might inadvertently be irritating the lease*
My officials will also provide further details and information on the current diversification process in the coming weeks.

The next stages of the Bill

At the evidence session you shared some concerns about the possible number of amendments to the Bill at Stage 2 and noted the recent recommendations of the Scottish Land Commission.

In its most recent advice, the Commission noted that the measures in the Bill “represent a significant step” towards addressing the Government’s Land Reform objectives. I welcome their revised advice. It does not seek to fundamentally change the aims or provisions in the Bill, but rather to simplify and further strengthen the legislation.

As a Government we strive for our legislation to be as strong as possible upon its introduction. However, it should be expected that the Government may wish to make some amendments to legislation in response to stakeholder views, the Committee’s scrutiny of the Bill, and the work of bodies such as the Scottish Land Commission.

Though I cannot confirm at this time any specific amendments the Government would like to introduce, I am considering carefully the recommendations of the Commission and the evidence heard by the Committee. I also look forward to your Committee’s report and any recommendations that you may make for the Bill.

I remain committed to working with Parliament to ensure the Bill is a strong and effective piece of legislation.

I hope that this further information is helpful and look forward to the Committee’s Stage 1 report.

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Yours sincerely,

MAIRI GOUGEON

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