

### Written submission from Kinnordy Estate

We are writing to you as members of the family that owns the Kinnordy estate in Angus. Kinnordy is a largely arable farming estate. About half the estate is tenanted by ten 1991 Act tenants and two Limited Duration tenants. The estate has been in the same family since the late eighteenth century and at least one of the 1991 Act tenant families has been in occupation even longer. Most of the tenants have substantial other farming interests in ownership, tenancy or contracting in addition to their tenancy on Kinnordy.

We believe that we have excellent relationships with our tenants and there have certainly been no significant disputes with them. Over the last three years two of them have retired from farming and the Estate agreed substantial retirement packages with the tenants based on s55 of the 2003 Act. A third tenant is in similar negotiation at the moment. In all cases compensation was paid to the outgoing tenants for Improvements, whether or not they had served Notice on the Landlord prior to carrying out the work. In all these cases we have been able to come to a satisfactory arrangement for both parties which we are confident has made it possible for the tenant to retire with dignity and considerable financial security exactly as the government desires. In most of the current on-going tenancies we expect that the current family will want to continue indefinitely.

Our understanding is that a key objective of Land Reform is to develop a “vibrant” tenant farming community. The problem is that it really requires two willing sets of participants, owners and tenants, to achieve this, yet all the current incentives for owners are to buy in land when available and then farm it in hand. None of the proposals in this or previous draft Land Reform legislation really address the issue of how to encourage owners to consider creating new tenancies. It is generally very expensive to ‘buy-out’ tenancies and as a result a Landlord is obliged financially to maximise the income from a bought in holding, such as by farming in-hand, letting out cottages, houses and buildings separately to maximise income in order to fund the transaction.

The proposal to change Section 79 of the Land Reform Bill to make 1991 Act tenancies assignable for value rather than potentially converting them into MLDTs doesn’t help this objective. It may strengthen the financial position of the tenant if the very specific proposed rules for financial transactions are implemented but it will not encourage owners to let more land. It may in fact have the perverse effect of encouraging owners to pay more to buy out tenancies to bring the land in hand. This would marginally help the existing tenants to get a higher value for their effective equity participation in the land but hinder the objective of increasing tenanted land to provide opportunities for new would-be farmers.

The proposed prescriptive rules for transactions involving the assignation of 1991 tenancies are similar to the terms that we have seen in such transactions and do not therefore have much impact on the general level of value achieved in such transactions. However, the rules are very specific and likely to get in the way of the details of particular cases. For this reason we think that the more specific rules proposed will hinder an already operating free market approach very similar to that desired by those that have drafted the current proposals.

We do hope that you will consider our views. We are keen that the agricultural sector in Scotland be able to develop in as varied and entrepreneurial way as possible and believe that government should aim to promote that by providing an appropriate framework without being over-prescriptive about these aspects.