

## Written submission from Buccleuch Estate

### Response by Buccleuch to the proposed replacement of S.79 of the Land Reform (Scotland) Bill

It is with some concern that we write to you regarding the Scottish Government proposed amendment to S.79 of the Land Reform (Scotland) Bill.

Buccleuch's interest in tenant farming is to have a strong agricultural sector full of talented, progressive farmers who are making the most of the land that they tenant from Buccleuch. Buccleuch achieves this by evaluating the viability of its farms and adjusting them as required and as permitted when farms become vacant or are returned. This is a continuous process and can in some cases require consolidation of holdings.

Many factors affect the viability of farming such as subsidy regimes, commodity prices, climate change and demographics. All farms, including tenanted farms must be capable of adapting in order to evolve. The locking in of farmland into tenancies no longer suited to modern farming in perpetuity is not right for the sector and will not allow it to flourish to its full capability. The proposed change of S.79 to remove the conversion clause and replace with an assignation clause reduces our opportunity to evolve and enable a more vibrant tenanted sector to develop. Buccleuch is a long-term farming business AND agricultural landlord and while conversion to overly long MLDTs (greater than 20 years) is not ideal it is something that would have aided our planning process. The proposed assignation clause effectively gives us no end date to work to as to when a tenancy will end.

We find it unclear as to what the Scottish Government is trying to achieve here. A significant amount of text in the proposed amendment has been taken up with how the valuation will be carried out if the landlord wants to purchase the tenant's interest in the tenancy. No text has been written on how the assignation value will be undertaken. We would ask whether any modelling has been undertaken to identify the likely assignation values that new entrants or those progressing farmers would have to pay to the assigning tenant?

While under an open market system each buyer may attribute a different value to what he/she is purchasing, it is inequitable and legally challengeable that differences in value can be imposed through legislation on a discriminatory basis. It is not fair to the assigning tenant and not fair to the owner of the property.

We would contend that the valuation methodology for the landlord's purchase is incorrect. The tenant has no interest in the capital value of the farm beyond those defined as tenant's improvements, they simply have a right to use the asset and therefore it is wrong for any value to be attributable to the capital value. The amount of money the tenant should be paid should reflect the economic value of the farm's use not its ownership.

We believe that any attempt to discriminate between buyers based on legislation is anti-competitive and would be challengeable under European law. If the Scottish Government wishes to subsidise specific groups of land users then it should do this by way of grant, subsidy or tax incentive, if permitted under European law. The

Government cannot, in our view, do this by the confiscation of a property owner's interest.

Buccluch's opinion is that S.79 should not be replaced, that the existing clause should be retained subject to a compromise of the MLDT term being reduced to a 25 year term. This we believe is in the best interests of the industry.