

## Response ID ANON-749U-C163-P

Submitted to Call for Views on the Land Reform (Scotland) Bill  
Submitted on 2024-05-16 13:56:49

### About you

1 Please read the privacy notice below and tick the box below to show that you understand how the data you provide will be used as set out in the policy.

I have read and understood how the personal data I provide will be used.

2 How your response will be published

I am happy for my name to be included in the published submission.

Please provide a reason if you'd like your response published anonymously.:

3 What is your name?

Name:

Tom Turnbull, Association of Deer Management Groups

4 What is your email address?

Email:

strone@btconnect.com

5 Please select the option that most applies to your submission. Are you responding to this as:

A membership organisation/professional body

### Organisation details

1 Name of organisation

Name of organisation:

Association of Deer Management Groups

2 Information about your organisation

Please add information about your organisation in the box below:

The Association of Deer Management Groups (ADMG) is an organisation established in January 1992 to represent its member Deer Management Groups, currently around 50 in number and covering approximately 3 million hectares of the Highlands.

ADMG promotes voluntary collaborative deer management on a landscape scale, working closely with NatureScot. ADMG is committed to the welfare of deer and their habitat through sustainable management practices and protecting employment and rural communities where deer management is a major economic land use.

### General Purpose in Relation to Large Landholdings

1 Do you agree that there is a need for further land reform to address issues around large landholdings in Scotland?

No

Please explain the reasons for your answer.:

In the Land Commission report published in 2019 - Review of Scale and Concentration of Land Ownership Report to Scottish Ministers, the core public interest issue behind land reform was identified as the concentration of power over local decision making, and the risk of localised monopoly. Since the publication of the 2019 report, management of land now firmly sits within the context of the biodiversity and climate crises and the public interest focus on the need to see improved habitat condition and carbon management. The 2023 State of Nature Scotland Report serves as an important reminder that ensuring the effective management of land matters more now than ever before and how we manage land has a fundamental impact on our ability to tackle climate change and biodiversity loss.

Achieving ambitious targets on woodland expansion, regeneration and peatland restoration will have a profound impact on improving our natural environment in the years to come but success in these activities is being strongly linked to actions undertaken at pace and scale, and in the Scottish Government in Scotland's ability to attract significant private investment.

The Association of Deer Management Groups (ADMG) has concerns that we will fail to achieve climate and biodiversity targets without effective land management at scale and without trust and stability for investors to support schemes which may require long term commitments over 50 -100 years.

Scotland's important net zero and biodiversity targets should not be missed through fixed arbitrary thresholds for land ownership and uncertainty over future fragmentation upon land transfer. Landscape scale work becomes increasingly difficult as land is fragmented and larger ecologically meaningful schemes and coordinated working becomes more complicated including all important deer management, as we highlighted in the current Managing Deer for Climate and Nature Consultation.

ADMG recognises that the benefits of carefully managed land are not just environmental though, and we want to ensure we are maximising the socioeconomic benefits land can bring particularly in providing important employment and social opportunities to our rural communities. We believe that community engagement is very important, as a result our membership which covers 3 million hectares of the highlands have had publicly available Deer Management Plans (DMPs) in place for many years. These DMPs cover all aspects of land management including woodland, peatland, agriculture, and forestry. The creation of land management plans would create duplication that should be avoided. Further land fragmentation would likely hamper effective deer management as can clearly be seen in areas of lowland Scotland.

It is likely that the proposal for Land Management Plans would not only duplicate existing collaborative landscape scale DMPs that already exist but that it would be detrimental to landscape scale deer management which requires the voluntary collaboration of land managers over vast areas not single landholdings.

Moving away from landscape scale management towards LMPs on each individual landholding would threaten the ability for Scottish Government to achieve targets laid down in both the Managing Deer for climate and Nature Consultation, and the current consultation, Biodiversity - Meeting our '30 by 30' Commitment on Terrestrial and Freshwater Sites. Both consultations refer to the importance of landscape scale land management, connectivity and collaboration. These proposals to consider land management on an individual level would be detrimental to effective deer management and a step backwards.

2 Will the proposals in this Bill fulfil the Scottish Government's objectives in relation to land reform?

No

Please explain the reasons for your answer. You may wish to comment on the Scottish Land Commission's analysis of perceived risks in relation to scale and concentration of landownership.:

We believe that a heavy handed, top-down approach to land reform will not enable effective landscape scale deer management and will threaten the important targets put in place by Scottish Government for biodiversity and climate change.

ADMG members undertake landscape scale deer management that becomes fundamentally more difficult as landholdings become smaller. The proposal in this bill threatens the ability to make the sorts of gains for climate and biodiversity that Scottish Government seek. The Bill challenges many of the objectives set out within the current consultation, Biodiversity - Meeting our '30 by 30' Commitment on Terrestrial and Freshwater Sites. The objectives laid out with the Managing Deer for Climate and Nature Consultation will also be considerably hampered by the proposals in this bill.

The ability for communities to buy large landholdings has been a step forward, however restricting the sale and purchase of large landholdings will be detrimental to the sort of private investment that Scottish Government is relying upon to deliver climate and biodiversity targets. Fractured land ownership as promoted in this Bill will also potentially limit employment opportunities in deer management and the ability for deer management to be undertaken effectively.

It would appear that there are competing interests between land reform and the biodiversity and climate crises that have not been adequately taken into account through this consultation process.

## Section 1

1 Do you support the proposal that the Scottish Ministers may, by regulations, impose obligations on landowners to promote community engagement in relation to large landholdings?

No

Please explain the reasons for your answer.:

There is a theme within this bill that large scale land holdings have a negative effect on community and rural areas, or are not already vital parts of the community itself. In reality large landholdings play an important role within communities and those working, owning or helping on those landholdings make up an integral part of many remote rural communities.

Community engagement was part of the NatureScot DMG assessment process that was undertaken by all fifty DMGs on three separate occasions. This assessed DMGs on 101 criteria on which deer management was being undertaken in the public interest. Deer Management Plans covering the highlands are publicly available and regularly updated. As was evidenced by the 2019 SNH Report Assessing Progress in Deer Management in which considerable progress was made on community engagement and managing deer in the public interest.

We believe that placing more enforcement on land managers will be counterproductive and add extra layers of administration to land management. Alienation of land managers should be avoided by Scottish Government, pace and scale in the delivery of climate and biodiversity targets rely on the active participation of landowners and particularly collaboration between large landowners.

Community engagement is unlikely to be facilitated by a top-down regulatory process that may unintentionally alienate those already managing, living and working in remote rural communities.

2 In principle, do you agree that owners of large landholdings should have a legal duty to consult on and publish land management plans?

No

If yes, do you think the Bill has set an appropriate threshold of landholding size for this duty to apply.:

The introduction of a requirement to implement individual LMPs would be detrimental to landscape scale deer management as well as Scottish Government biodiversity and climate targets.

Community engagement is unlikely to be facilitated through the implementation of a requirement for LMPs. Added to this the uncertainty provided by

cuts to Forestry Grant Scheme funding, peatland restoration funding and a lack of certainty around agricultural support, not to mention changes in deer legislation mean that the ability to make a coherent plan for the future in land management is currently extremely challenging.

It is likely that the proposal for Land Management Plans would not only duplicate collaborative landscape scale DMPs that already exist but that it would be detrimental to landscape scale deer management which requires the voluntary collaboration of land managers over vast areas and not single landholdings.

ADMG considers that the greatest impact of this proposal would be on the effective delivery of collaborative deer management. ADMG's own analysis has identified that the proposal would impact on 335 landholdings within existing DMGs (covering an area of just under 2.5m ha), to add an additional layer of planning over and above current deer management plans, leading to a move away from landscape scale collaboration. Note this figure does not include National Forest Estate properties or any properties in the lowlands.

In order to be effective, the delivery of these plans would still require collaboration, currently facilitated through landscape scale plans and would therefore lead to duplication of effort. With a focus on individual plans and away from landscape scale planning, the risk ADMG identifies is a loss of collaborative deer management in the uplands which is only going to be more important in the future, not less. With the expectation that land managers would be required to finance these plans privately.

3 Do you support the process for investigating alleged breaches of community engagement requirements for large landowners set out in the Bill? Do you support the proposed level of penalty for contravention?

No

Please explain the reasons for your answer.:

We would promote a voluntary system that develops a meaningful constructive dialogue as opposed to a top-down heavy-handed approach with the threat of fines. Collaboration between land manager and community is unlikely to be engendered through the threat of enforcement through a new Land Communities Commissioner and the threat of fines.

There seems to be an implication throughout this bill that large scale landowners and those that work with them are not already integral parts of remote rural communities. This demonstrates a lack of understanding about the role of land managers in their respective communities.

## Section 2

1 Do you support in principle strengthening community bodies' opportunity to buy large landholdings?

Not Answered

Please explain the reasons for your answer.:

ADMG believes that the ability for communities to buy large landholdings has been an important step forward, however restricting the sale of large landholdings will be detrimental to the sort of private investment that Scottish Government is relying upon to deliver climate and biodiversity targets.

No

Please explain the reasons for your answer.:

The splitting of landholdings and the fragmentation of larger landholdings will threaten collaborative deer management and reduce the ability for landscape scale deer management. This can be seen in the lowlands where land ownership is more fragmented and the deer reductions that have already occurred in the highlands are yet to take place.

No

Please explain the reasons for your answer.:

As with the above responses in Section 2 we feel that the lotting of land would be prohibitive to effective deer management and the targets set out for biodiversity and climate by Scottish Government.

## Section 4

1 Do you, in principle, approve of allowing the Scottish Ministers to make a lotting decision in relation to sales of large landholdings?

No

Please explain the reasons for your answer.:

The splitting of landholdings and the reduction in the ability for inward investment in land will hamper Scottish Government's ambitious targets for climate and biodiversity which currently rely substantially on investment by private individuals as has been evidenced by the reduction in funding for Forestry Grants and Peatland Action.

Inward investment becomes less attractive as landholding sizes are reduced and deer management becomes fundamentally more difficult as we have already highlighted in this response.

We do not agree that Scottish Ministers should be able to lot landholdings and if lotting is necessary then it should be undertaken by an entirely neutral body with support from appropriate professional expertise.

Please explain the reasons for your answer.:

We do not agree that Scottish Ministers should be able to lot landholdings and if lotting is necessary then it should be undertaken by an entirely neutral body with support from appropriate professional expertise.

1000 ha would appear to be an arbitrary figure that does not take into account the scale of land required for varying land uses. Taking a one size fits all approach to land management is unlikely to deliver sustainable rural communities or employment opportunities.

2 Is the proposed process for making a lotting decision appropriate and workable?

No

Please explain the reasons for your answer.:

The proposed lotting of land by Scottish Ministers will slow the conveyancing of land, threaten the ability to invest in natural capital and hinder the targets set by Scottish Government

3 Do the Scottish Government's proposals for a "transfer test" adequately take the public interest into account?

No

Please explain the reasons for your answer.:

Deer Management Groups have been undertaking deer management in the public interest for many years as evidenced by the 2019 SNH Report Assessing Progress in Deer Management which assessed DMGs on 101 criteria related to public interest.

If delivering climate and biodiversity outcomes are the priority for land management in the public interest as is seen in the biodiversity strategy, and the managing deer for climate and nature consultation, then these proposals threaten those outcomes through making collaborative deer management more complicated and less achievable.

## Section 6

1 Do you support the creation of the new role of Land and Communities Commissioner?

No

Please explain the reasons for your answer.:

ADMG opposes the proposals in the bill and as such would rather that if they were taken forward by an entirely neutral body if that were to be the case.

Please explain the reasons for your answer.:

We do not believe that many of the responsibilities proposed in the Bill are necessary, they are likely to be extremely detrimental to effective landscape scale deer management and therefore biodiversity and climate targets.

## Section 7

1 Are you satisfied with the broad duty Section 7 of the Bill places on the Scottish Ministers to develop a model lease for environmental purposes, including the definition of "environmental purposes" set out in Section 7?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment but it would seem right that as long as both landlord and tenant are happy with said land management activities then these should be explored.

## Sections 8 and 9

1 Do you agree with the provisions in the Bill extending certain rights to small landholders?

Not Answered

Please explain the reasons for your answer.:

Small Landholdings as a distinct tenure sit outside ADMGs capability to comment.

2 Do you agree that the Tenant Farming Commissioner's functions should be extended to include small landholders?

Not Answered

Please explain the reasons for your answer.:

Small Landholdings as a distinct tenure sit outside ADMGs capability to comment.

## Section 10

1 Do you agree with repealing Section 99 of the Land Reform (Scotland) Act 2016, and with giving the Scottish Ministers the power to make regulations which modify the requirement for tenants to register their interest in exercising their pre-emptive right to buy?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

## Sections 11 to 13

1 Do you agree with the changes to resumption proposed in the Bill?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

## Section 14

1 Do you agree with the proposed changes to compensation for improvements for tenant farmers?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

2 Do you believe that the provisions will better enable tenant farmers to engage in sustainable and regenerative agriculture?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

## Sections 15 to 19

1 Do you agree with the proposed changes in relation to diversification on tenant farms?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

2 Do you believe these provisions will better enable tenant farmers to engage in sustainable and regenerative agriculture?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

## Section 20

1 Do you agree with the proposed changes to compensation for game damage for agricultural tenants?

No

Please explain the reasons for your answer.:

Compensation for 'damage by game' and 'damage caused by game management' are two entirely different factors and should be separated for the purposes of the legislation.

In the case of deer specifically, it should be made clear that the term deer refers to wild deer. As legally wild deer are deemed to be res nullius it is difficult to see how a landlord could be held liable for compensation for damage from an animal that does not belong to them.

Where the Bill states that "This section applies where neither the tenant of an agricultural holding or any other person with a right in the holding deriving

from the tenant has— (a) the right to kill and take game, or (b) written permission from the landlord to do so” it should be noted that the Deer (Scotland) Act currently makes adequate provision for an ‘occupier’ of land to take or kill deer to prevent damage and this will likely be strengthened in the new deer legislation.

The words “where game” should be removed from the following paragraph.

The tenant is entitled to be compensated by the landlord where game or game management have caused the tenant to sustain (whether directly or indirectly)— (a) damage to crops grown, or seeds sown, for agricultural, or permitted non-agricultural, purposes, (b) damage to trees grown for agricultural, or permitted non-agricultural, purposes, (c) damage to fixed equipment, (d) damage to livestock, (e) damage to habitats.

## Section 21

1 Do you agree with the proposed standard claim procedure for compensation at the end of a tenancy?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

2 Do you agree with granting the Scottish Ministers power to apply the standard claim procedure to any relevant type of compensation?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

## Section 22

1 Do you agree that interest should be payable on outstanding compensation claims?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

2 Do you agree with the rate of interest set out in the Bill?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

## Sections 23 to 25

1 Do you agree with the changes to rent reviews proposed in the Bill?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

2 Do you agree with the Scottish Ministers being given powers to make provision in relation to matters that are to be taken into account by the Land Court when determining the rent for a holding?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

## Sections 26 and 27

1 Do you agree with the proposed changes to the rules of good estate management?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

## 2 Do you agree with the proposed changes to the rules of good husbandry?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

## Links to the Agriculture and Rural Communities (Scotland) Bill

### 1 Are the changes proposed in the Land Reform (Scotland) Bill sufficient to enable tenant farmers to engage in sustainable and regenerative agriculture, and to allow them to take part in schemes and programmes under any new agricultural policy?

Not Answered

Please explain the reasons for your answer.:

Landlord and tenant agreements sit outside ADMGs capability to comment.

## Fairness and checks and balances

### 1 Do you consider the Bill strikes a balance between the competing interests and rights of landowners, local communities, landlords and tenants, alongside the wider public interest?

No

Please explain the reasons for your answer.:

Treating landowners, local communities and tenants as 'competing interests' is unlikely to develop trust and more likely will widen any perceived divide.

## Tackling the Climate and Biodiversity Crises

### 1 In your view, does the Bill make adequate provision for the role that land might play in delivering a just transition to net zero and tackling the biodiversity crisis?

No

Please explain the reasons for your answer.:

As we have already mentioned within this call for views and in the original consultation, there may be significant negative effects on climate and biodiversity. Both the Biodiversity Strategy and the managing deer for climate and nature consultation note the need for effective deer management which is fundamental to tree planting and peatland restoration in the highlands in particular. Smaller landholdings may hamper collaborative deer management and the ability therefore to achieve targets.

Scottish Government would like to see private investment in land in the light of the climate and biodiversity crises such as woodland creation and peatland restoration. This is particularly relevant now that the Forestry Grant Scheme has been cut by 40%. Large landholding size is likely to be an important deciding factor in suitable sites for private natural capital investment, the fracturing of landholdings is likely to damage or restrict the desirability of sites.

The proposed overly complicated conveyancing requirements for the sale or purchase of large landholdings is likely to restrict investment in natural capital. Adding layers of administration through Land Management Plans much of which will duplicate what is already contained within Deer Management Plans would also be damaging to the speed and scale required by Scottish Government to react to the climate and biodiversity crises. 80% of deer management in Scotland is undertaken by the private sector often at a loss to deer managers. Further reducing land ownership parcels is likely to reduce the ability to liaise with neighbours, promote habitat connectivity and fight climate change. In the Lowlands NatureScot have no knowledge of cull levels, deer population numbers, habitat damage. The proposals in the bill would replicate this in the highlands damaging the ability to hit important targets.

Scottish Government and NatureScot have made it very clear that all deer management is now framed in the light of the climate and biodiversity crises, the proposals in the bill would limit the ability to manage deer effectively and deliver net zero and tackle the biodiversity crisis.

In the highlands largescale landholdings employ deer managers to undertake effective deer management. If landholdings are reduced in size dramatically it is likely that this will reduce their economic viability and ability to sustain deer management jobs. A just transition for deer managers needs to be seriously considered in this Bill.

Throughout the consultation and the call for views there would appear to be little evidence for the alleged negative public perceptions of large-scale land ownership, ADMG would be keen to see the evidence collected on this in the preparation of the bill.