

By email dated 5 March 2020, the Scottish Government requested that stakeholders provide their comments on the rent review provisions contained in the Land Reform (Scotland) Act 2016 (“**2016 Act**”).

The rent review provisions in the 2016 Act:

- Delete the existing provisions of section 13 of the Agricultural Holdings (Scotland) Act 1991 based on “open market rent” (“**Section 13 Methodology**”) (open market rent is also the default methodology for limited duration tenancies and modern limited duration tenancies as contained in section 9 of the Agricultural Holdings (Scotland) Act 2003 and the comments below apply in the same way to fixed term tenancies).
- Make provision for a new methodology which provides that the rent will be a “fair rent” taking account of all the circumstances including the productive capacity of the holding, the open market rent of surplus accommodation and the open market rent of fixed equipment/land forming part of the holding used for a purpose that is non-agricultural (“**2016 Act Methodology**”).

In the evidence that we submitted at stage 1 of the 2016 Act (“**Stage 1 Evidence**”), we expressed the following views:

- We opposed change to the Section 13 Methodology.
- We suggested that the Section 13 Methodology, supported by guidance, was a pragmatic way forward and a new system was unlikely to represent a significantly better approach (and thus a change was unlikely to be worth making).
- We were concerned that the draft rent review provisions contained in the Bill had not been tested and it was unclear what the Section 13 Methodology was going to be replaced with and whether or not it was an improvement.

Despite our reservations, we have worked with the Scottish Government and other stakeholders to try and find solutions to any issues identified with the 2016 Act Methodology. However, the sector has moved on since the discussions and events leading up to the 2016 Act and we support the Scottish Government’s decision to “take stock” of the 2016 Act Methodology before taking any further steps towards implementation.

We have set out the questions asked by the Scottish Government below, together with our responses.

### **Should the Scottish Government be pushing ahead with the rent regulations at this time?**

We do not consider that the Scottish Government should be moving forward with implementation of the 2016 Act Methodology. This is primarily because of the complexity of the 2016 Act Methodology, and the increased potential for dispute.

#### *Complexity of the Methodology*

We appreciate that a substantial amount of work has been carried out in the connection with the 2016 Act Methodology since 2016. In particular, the report published by Savills, Watson Bell and Hamish Lean of Shepherd & Wedderburn in January 2018, provided detailed analysis of the 2016 Act Methodology and set out recommendations which sought to make the 2016 Act Methodology workable in practice (“**Rent Review Testing Report**”).

The Rent Review Testing Report highlighted a number of complex issues which required further discussion between stakeholders including -

- Use of the “gross output” model to calculate “productive capacity”.
- If the “gross output” model is to be used, what percentage represents the “surplus” to be divided (for example, the figure of 25% was discussed).
- What is the level of division between tenant and landlord (for example, a 50/50 split)

- Use of “black patching” for improvements.
- Use of alternative approach for “non black patched improvements”
- Treatment of the Farmhouse

Whilst the Scottish Government has understandably had to settle some of these points on a “majority rules” basis in order to make progress, we are concerned that some of these issues are technical and there is not necessarily a straightforward “one size fits all” answer – in trying to simplify a complex process, there is real a risk of bringing forward a flawed system.

The lack of detail in the 2016 Act Methodology means that the “gaps” will need to be filled by Codes of Practice produced by the Tenant Farming Commissioner. Whilst we fully recognise the value of the Codes of Practice in the sector, we had understood that the focus was to be the regulation of behaviour and conduct – not the provision of complex technical instruction for professional advisers. The reliance on Codes of Practice for regulating contentious and complicated technical points would again seem to increase the potential for dispute (and also raise queries about the appropriate forum for such a dispute to be settled).

In addition, it is clear from the Rent Review Testing Report that the 2016 Act Methodology is complex and will not be capable of being applied without a detailed understanding of how to deal with tenant’s improvements and data relating to, for example, standard labour requirements. Whilst we would always advocate taking independent advice, the need for extensive and specialist professional expertise throughout the process will lead to delays and higher costs, which seems unlikely to improve relations between landlord and tenant.

#### *Uncertainty relating to “fair rent”*

We have been clear in our evidence and discussions with the Scottish Government that a “fair rent” should be a rent that is fair to both parties. Much of the detailed analysis to date has focused on how to calculate the components of a “fair rent” which are specifically referenced in the 2016 Act Methodology – productive capacity, surplus accommodation and non-agricultural use. There has been less discussion about the overarching requirement for a “fair rent” and how this would be analysed.

The Rent Review Testing Report highlights that the 2016 Act Methodology leaves the Land Court with the capacity to consider other areas which “may be relevant”. It identifies two specific areas, being sitting tenant rents and “non surplus” accommodation.

Whilst it is positive that these points are acknowledged in the Rent Review Testing Report, there is no clarity on how either of these points would be dealt with by the Land Court. Given the key issues which remain outstanding in relation to the 2016 Act Methodology, in particular the treatment of the farmhouse, it is difficult to see how the 2016 Act Methodology could be considered fair to both parties. This unfairness is again likely to result in an increased potential for dispute.

#### *Lack of confidence in the sector in 2016 Act Methodology*

In order to gauge the sector’s reaction to the 2016 Act Methodology, we think that it is useful to consider what actions landlords and tenants have taken during the implementation period with regard to rent review. The introduction of modern limited duration tenancies on 30 November 2017 means that landlord and tenants have had to reach agreement on rent review in anticipation of implementation of the 2016 Act Methodology (the 2016 Act provides that, in the absence of provision to the contrary in the lease, the 2016 Act Methodology will apply).

From discussion with our professional members since November 2017, we understand that the most common approach has been to contract “into” open market rent provisions (ie the Section 13 Methodology). We have not been advised of any cases where the parties have chosen to rely on the 2016 Act Methodology. We appreciate that this may be partly attributable to “fear of the unknown”, but it also demonstrates the lack of confidence which the sector has in the 2016 Act Methodology.

If landlords and tenants across the sector are opting to use the Section 13 Methodology for the future, we question the need to bring forward the 2016 Act Methodology.

## *Conclusion*

The policy memorandum for the 2016 Act states that the 2016 Act Methodology will “*enable both parties to undertake a more structured, transparent and objective rent review*”<sup>1</sup>. The complexities and differences in professional approach which have come to light in respect of numerous aspects of the 2016 Act Methodology during the implementation period indicate that this is not in fact the case.

Our primary concern remains that the 2016 Act Methodology will cause more disquiet and dispute in the industry than exists currently under the Section 13 Methodology. In our view, the introduction of the 2016 Act Methodology would have a negative impact on the sector, which would be particularly disappointing given the positive discussions which have taken place on other topics dealt with by the 2016 Act, such as tenant’s improvements and the creation of the role of the Tenant Farming Commissioner.

We note that the Scottish Government has asked whether or not they should be proceeding with the 2016 Act Methodology “at this time”. We appreciate that the Scottish Government needs to carefully consider the next steps to be taken, but if the decision is taken to remain with the Section 13 Methodology, we think that a clear statement of intention to repeal the 2016 Act Methodology will be required in order to bring certainty to the sector. It would not be helpful to the sector to leave the 2016 Act Methodology on the statute books indefinitely.

Some consideration would be required for any landlords and tenants who have chosen to adopt the 2016 Act Methodology for rent reviews for Modern Limited Duration Tenancy (or rather those who have chosen not to make provision to the contrary) and the potential implications for their tenancy arrangements – but as highlighted above,, our understanding is that these may be only a few cases where this approach has been taken.

## **What alternatives should the Scottish Government consider?**

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Given our view that introduction of the 2016 Act Methodology would have a detrimental effect on the sector, we have considered the alternative options. Our position remains that the Section 13 Methodology presents the most pragmatic way forward for the sector.

### *Tried and Tested Method*

We refer back to the Report which was published by the Tenant Farming Forum Rent Review Working Group in November 2012 (“**TFF Report**”)<sup>2</sup>. It concluded that the Section 13 Methodology was a “tried and tested rent review formula”. We agree with this summary. Not only has the Section 13 Methodology been used in practice for over 10 years (and indeed a methodology based on similar principals used prior to 2003), it also been tested in the Land Court. High profile cases such as Moonzie provided useful analysis on the way in which the Section 13 Methodology should be applied, thus providing landlords and tenants with certainty.

We also note that the Section 13 Methodology requires the valuer to have regard to the “current economic conditions” and therefore some elements of the “productive capacity” discussion would continue to be relevant.

In addition, the Section 13 Methodology is now backed up by guidance which has been endorsed by the industry. Andrew Thin, in his capacity as independent advisor on Tenant Farming produced stakeholder guidance on agreeing and negotiating rents (“**2015 Guidance**”)<sup>3</sup>. This Guidance was updated by the Tenant Farming Commissioner in 2018 (“**2018 Guidance**”).<sup>4</sup>

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<sup>1</sup> [https://www.parliament.scot/S4\\_Bills/Land%20Reform%20\(Scotland\)%20Bill/b76s4-introd-pm.pdf](https://www.parliament.scot/S4_Bills/Land%20Reform%20(Scotland)%20Bill/b76s4-introd-pm.pdf)

<sup>2</sup> <http://www.tenantfarmingforum.org.uk/tff/pubs.aspx>

<sup>3</sup>

<https://www.scottishlandandestates.co.uk/sites/default/files/library/Joint%20Guidance%20on%20Negotiating%20and%20Conducting%20Rent%20Reviews.pdf>

<sup>4</sup> [https://landcommission.gov.scot/downloads/5dd80bb860494\\_Conducting-Rent-Reviews-Oct-2018.pdf](https://landcommission.gov.scot/downloads/5dd80bb860494_Conducting-Rent-Reviews-Oct-2018.pdf)

The 2018 Guidance specifically endorsed the use of the CPI sense check and considered the way in which comparables can be used in practice. We continue to support the use of sense checks in the rent review process and, whilst CPI was not “designed” for the sector, it is simple and straightforward to use – which is key for any sense check if it is to be workable in practice.

We also think that there may be benefit to exploring how comparables can be used more effectively in the sector, for example consideration could be given to whether or not a public register of rents would result in a more transparent system. Such consideration would also need to cover practical issues such as how the register would be managed, the type of data which would need to be disclosed on the register to allow the figures to be useful, and what safeguards would be required to ensure compliance with GDPR.

We would support the 2015 Guidance and the 2018 Guidance being updated and expanded upon as required to supplement the Section 13 Methodology and ensure that landlords and tenants (and their respective agents) build confidence in the behaviours and practices adopted during the rent review process.

### *Conclusion*

In summary, the case for retaining the Section 13 Methodology is now stronger than it was in 2016, as landlords and tenants have continued to use the Section 13 Methodology supported by the 2018 Guidance in the intervening period, without lengthy recourse to the Scottish Land Court. We would welcome the opportunity to work with the Tenant Farming Commissioner and build on the existing guidance relating to the Section 13 Methodology as required.

### *Alternative Dispute Resolution*

We support the use of alternative dispute resolution, and welcomed the guidance produced by the Tenant Farming Commissioner which summarised the different methods available<sup>5</sup>. We would be keen to continue the discussion relating to the use of alternative dispute resolution across the sector, not only in relation to rent review.

We would query whether enforced mediation would be a helpful addition to the rent review process, given that mediation is most successful when the parties are prepared to work together to try to find a solution. If mediation was enforced, there is a risk that it may become a “tick box” exercise before escalating the dispute to the Land Court – thus only adding to the cost and frustrating the parties. There may also be issues regarding timing and referrals to the Land Court.

In addition, the process of mediation often involves a substantial amount of work being completed in advance of the mediation in order to ensure that both parties can achieve from the process as possible and a full and final agreement can be reached on the day. It would often not be sufficient to simply compel the parties to attend.

However, as set out above, we support the use of alternative dispute resolution. It may be that a Code of Practice could be developed which sets out how mediation and other methods should be factored into the rent review process (following on from the Tenant Farming Commissioner’s guidance summarising the different methods).

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<sup>5</sup> [https://landcommission.gov.scot/downloads/5dd8099972db9\\_TFC-Guide-to-ADR\\_Final.pdf](https://landcommission.gov.scot/downloads/5dd8099972db9_TFC-Guide-to-ADR_Final.pdf)

**From:** Redacted@scottishlandandestates.co.uk>  
**Sent:** 24 March 2020 12:46  
**To:** Redacted@gov.scot>  
**Cc:** Sarah Jane Laing <sarahjane.laing@scottishlandandestates.co.uk>  
**Subject:** RE: Rent Review Response

**Redacted**

I attach our comments in connection with the rent review methodology -- please let me/Sarah Jane know if you have any queries.

I hope that you and the rest of the team are keeping well.

Regards

Redacted

**From:** redacted@gov.scot  
**Sent:** 16 March 2020 14:11  
**To:** Redacted@scottishlandandestates.co.uk  
**Cc:** Sarah Jane Laing <[sarahjane.laing@scottishlandandestates.co.uk](mailto:sarahjane.laing@scottishlandandestates.co.uk)>  
**Subject:** RE: Rent Review Response

Hi Redacted,

Yes that will be fine -- would you be able to get it to me for Tuesday? I really appreciate you looking at this. If it would help to discuss any aspect of my email, I'm more than happy to do so.

Thanks

**Redacted**

**From:** Redacted@scottishlandandestates.co.uk  
**Sent:** 16 March 2020 13:45  
**To:** Redacted@gov.scot  
**Cc:** Sarah Jane Laing <[sarahjane.laing@scottishlandandestates.co.uk](mailto:sarahjane.laing@scottishlandandestates.co.uk)>  
**Subject:** Rent Review Response

Redacted

We are pulling together our response on the rent review. We have an National Policy Group meeting on Friday -- would it be possible for us to let you have our response at the beginning of next week (to allow time for sign off)?

Redacted

Redacted

Scottish Land & Estates  
Stuart House, Eskmills, Musselburgh EH21 7PB



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From: redacted@scottishlandandestates.co.uk>

Sent: 05 May 2020 16:59

To: Redacted@gov.scot>

Cc: Redacted@gov.scot>; redacted@gov.scot>

Subject: RE: Agriculture (Retained EU Law and Data) (Scotland) Bill - Stage 1 Debate

Dear All,

Apologies for not getting this to you sooner I've had some rural wifi issues. Briefing attached and we are drafting some suggested amendments.

Kind regards,

Redacted

Redacted

Policy Adviser (Agriculture)

Scottish Land & Estates

Stuart House, Eskmills Business Park, Musselburgh EH21 7PB

T: 0131 653 5400 M: Redacted W: scottishlandandestates.co.uk Twitter: @ScotLandEstates

From: Sarah Jane Laing <sarahjane.laing@scottishlandandestates.co.uk>

Sent: 20 May 2020 13:51

To: redacted@gov.scot>

Subject: FW: Press statement on rent reviews

Hi Redacted

Hope all still well with you. Just wanted to share our short press statement being issued in response to the one from STFA. Discussed it with Bob first so we are fairly well aligned. We have stayed away from the rent review methodology aspect of the release – our position and as far as I know the position of everyone bar STFA hasn't changed. Are you able to update me on latest Gov thinking?

Is there any way (redact) would issue statement saying that its not happening anytime soon so that we all have some certainty? We plan to write to him on the topic but thought I'd speak to you first

SJ

Sarah-Jane Laing

Chief Executive

From: redacted@scottishlandandestates.co.uk>

Sent: 20 May 2020 12:29

To: <sarahjane.laing@scottishlandandestates.co.uk>; recipients redacted

Subject: FYI: Press statement on rent reviews

Dear SLE Board Members and Ag Holding Group Members,

Please see our press statement below in response to the STFA's call for a rent review moratorium. Please like and share if you are on social media.

Best wishes

Redacted

PRESS RELEASE

20 May 2020

#### DIALOGUE KEY TO RENT REVIEW PROCESS

Communication between landlords and tenants - especially in relation to the impact of Covid-19 - is vital when conducting farm rent reviews, Scottish Land & Estates said today.



Responding to a call from the Scottish Tenant Farmers Association for farm rent reductions, SLE said rent reviews should be conducted in line with sector guidance from the Tenant Farming Commissioner.

Sarah-Jane Laing, Chief Executive of Scottish Land & Estates, said: "We have evidence from landlords that they have been taking the impact of the Covid-19 pandemic into account in relation to rent reviews. In some circumstances, that has meant reviews being deferred or rents held at current levels. Any allegation of landlords acting unreasonably should be supported by transparent evidence and brought to the attention of the Tenant Farming Commissioner.

"Rent reviews are a two-way process, and if any tenant is experiencing difficulties they should contact their landlord without delay. Communication is vital, especially at the current time. As well as direct communication between landlords, tenants and their agents, we would encourage anyone who has concerns to speak to the Tenant Farming Commissioner or to organisations such as ourselves, STFA, NFUS, RICS and SAAVA.

"Serving rent notices for reviews to take place at a future date is a necessary part of the administrative process and should be done in line with the guidance from the Tenant Farming Commissioner which encourages regular and open discussions. The rent review process allows the parties to look at the rent, it does not automatically result in an increase and the covering letters from landlords and their agents will make this clear. Any rent review which does take place in the next 12 months will of course take into account the many factors which will affect farming."

ENDS

Redacted

Head of Communications

Scottish Land & Estates, Stuart House, Eskmills, Musselburgh EH21 7PB

T: 0131 653 5400 M: redacted W: [scottishlandandestates.co.uk](http://scottishlandandestates.co.uk)

At Scottish Land & Estates (SLE) our work helps to ensure that rural Scotland thrives. We are a membership organisation for landowners, rural businesses, and rural professionals. We promote the wide range of benefits land-based businesses provide: tourist attractions, leisure facilities and landscapes enjoyed by the public, as well as, housing, employment, tourism & enterprise, and farming opportunities.

## Summary

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Scottish Land & Estates (SLE) welcome the opportunity to provide views on the draft Agriculture (Retained EU Law and Data) (Scotland) Bill, **and we encourage MSPs to vote in favour of the Bill at Stage 1.**

The Bill largely brings necessary EU law into domestic law and creates powers for ministers to modify retained EU law, new powers are also created relating to the collection of data.

However, with a necessary focus on climate change and biodiversity loss, alongside a majority Westminster government offering certainty on [rural funding](#) for the duration of the parliament, the ambition of this Bill and that of the Stability and Simplicity consultation is perhaps lacking. What the industry needs now is bold and ambitious leadership in setting a clear direction of travel for future policy, delivering a policy which rewards and invests in farming and wider land management for the benefit of all.

The Progress Report published in December 2019 by the Committee on Climate Change stress the need for immediate action. Highlighting the need for government to define a long-term policy framework beyond the current Common Agricultural Policy (CAP) which enables and encourages emission reduction from agriculture. This was mirrored in the ECCLR Committee session on 5 November 2019 where concerns were raised about Scotland's progress, reporting and data gaps for land use.

**Immediate action needs to be taken to prevent long-lasting negative consequences for the sector. We must use this opportunity to identify what we want to achieve from investment in rural Scotland, particularly in our uplands and our less favoured areas. This Bill, as it stands, misses the opportunity to deliver a clear direction for the industry to transition towards.**

We, like other stakeholders, had understood that this Bill would provide for the continued operation of EU agricultural legislation, ensuring the administration of payments for the period of 2020 and that future legislation would be brought forward detailing the direction transition period put forward in the Stability and Simplicity consultation.

However, the powers in this bill are far broader than that. It enables Ministers to make changes to CAP legislation and payment provisions, but without defining what the scale or scope of those changes might be. It provides powers to make changes to payments and to cap payments, but again fails to define the scale of these changes nor what any resulting savings may be used for. The lack of a sunset clause means that the powers are not time-limited and could roll on beyond 2024 and the proposed transition period in Stability and Simplicity.

These concerns have also been raised by the Delegated Powers and Law Reform (DPLR) Committee. In the DPLR Letter to Scottish Government on 10 December 2019 the committee pose clear concerns about the scope of powers in the Bill conferred on Scottish Minister and how these

may be applied by future governments. Their questions are especially concerning when we consider there is no formal arrangement currently in place between the UK and devolved administrations on the creation or operation of any future policy frameworks and shared decision making.

### **Recommendations from Rural Economy and Connectivity Committee**

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**Like the Rural Economy and Connectivity Committee, SLE supports the general principles of this Bill and agree it should be agreed to and move to stage 2.**

We share the Committee's general view on the Bill that this is an important mechanism to facilitate a smooth transition. However, the value of this smooth transition can only be realised if the sector receives greater detail on post-2024 policy ambition.

Section 2 provides powers for Scottish Ministers to change any part of CAP legislation, where such changes "*simplify or improve the operation of the provisions of the legislation*". However, potential changes which constitute a "*simplification*" or "*improvement*" are not defined. We agree with the concerns of the DPLR Committee; the intentions are not clear and may be subject to interpretation or change by future governments.

The [Simplification Task Force](#), set up as part of the Stability and Simplificity Consultation to identify recommendations for such changes, published its findings on 13 January 2020. This report reads remarkably like the executive summary of the [2014 Pack Report- Doing Better Initiative to Reduce Red Tape](#). That is not to discredit their work but rather highlight the issues within agricultural policy delivery and scheme design are not new. We now have the opportunity to utilise past and current analysis and recommendations when designing future schemes and making more immediate "quick fixes". This wealth of knowledge must not be forgotten.

For these reasons, we believe that the Bill needs a purpose clause setting out intentions, scope for potential changes and a clear direction of travel during any transition period. The purpose must consider the ambitious emissions reduction targets in the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the legislative commitments therein to agricultural transformation and a just transition.

Section 3 gives Ministers the power to modify CAP legislation to secure its continued operation in Scotland post-2020. We understand that the intention of this provision may be to ensure there is continuity during a period of considerable change. We understand that this Bill was drafted before the General Election, when the Brexit timetable remained unclear, but the UK left the EU on 31 January 2020 and the transition period and negotiations are set to end on 31 December 2020. With this in mind, we are concerned that there is no end date is proposed to these powers. We argue that this section should be amended to include a sunset clause giving powers for a finite time, with a commitment to bring forward future primary legislation before we emerge from the transition outlined in Stability and Simplicity.

In principle and with some caveats, we support the introduction of powers to modify the financial provisions in CAP legislation, both allowing movement of money from Pillar I to II and capping of payments during the transition period.

However, we would like to see the Bill include much more clarity on how any savings generated from capped payments or reallocation of funds will be spent and how the impact of that spending will be assessed. In our [#Route2050 paper](#) we detail our vision for the future of Scottish land management

and rural policy, recommending that one priority should be investment in research, innovation and trialling interventions to secure uptake of farm level measures that reduce emissions, sequester more carbon and deliver on existing legislative commitments. We would encourage the committee to consider this paper as the Bill progresses.

It would be possible to amend the Bill to address these concerns:

- **A Purpose Clause** - Setting out intentions, scope for potential changes and direction of travel during the transition period. The purpose must consider the ambitious emission reduction targets in the Climate Change (Emission Reduction Targets) (Scotland) Act 2019 and legislative commitments to agricultural transformation and a just transition.
- **A Sunset Clause, either until 2024 or shortly after** - A clause is needed to ensure new policy is brought forward rather than retained EU legislation rolling on indefinitely with minor corrective tweaks. It would also ensure that new legislation is required beyond 2024.
- **Scrutiny and Negative Procedure** - New regulations must receive appropriate scrutiny and consultation with relevant parties. The powers in this Bill have the potential to create significant impacts and unintended negative consequences must be avoided.
- **Purpose of capping** - Clarity is needed on the purpose of any proposed capping or payment ceiling, including the potential impact to businesses and the environment, and the intention as to how such savings would be used. The capping of environmental payments risks reducing the benefit that schemes seek to deliver. If capping savings were to be used for pilots or trials, then the purpose of these must be for delivering policies which are in keeping with Scotland's ambition to address climate change and biodiversity loss.

### **Covid-19 Recovery Consideration**

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In light of the current pandemic, we would encourage the government to use the economic and green recovery effort to ensure the agricultural sector is put into the best possible position to recover from this.

There needs to be a clear effort to build resilience and adaptability into the sector. Whilst pandemics are rare, sudden changes to market situation, weather intensity and economies have enormous impact on the sector. Changes to agricultural policy and government support should be better used to instil good habits and better business practice.

**For more detailed information:**

**Redacted**

Policy Adviser (Agriculture)

✉: [redacted@scottishlandandestates.co.uk](mailto:redacted@scottishlandandestates.co.uk)

📞: Redacted



From: Redacted

Sent: 18 August 2020 16:13

To: Cabinet Secretary for Rural Economy and Tourism

Subject: Co-signed letter on the Agriculture (Retained EU Law and Data) (Scotland) Bill

Dear Cabinet Secretary,

On behalf of Scottish Land & Estates, Scottish Environment LINK, Soil Association Scotland, Game & Wildlife Conservation Trust Scotland, Nature Friendly Farming Network Scotland and Rare Breeds Survival Trust Scotland, please find attached a co-signed letter regarding the Agriculture (Retained EU Law and Data) (Scotland) Bill.

Our organisations would very much welcome your engagement on the proposals contained in this letter, which we believe would strengthen the Bill and help support Scotland's farming community.

We look forward to your response.

Best regards,

Redacted

Public Affairs Manager

Scottish Land & Estates

Stuart House, Eskmills, Musselburgh EH21 7PB

T: 0131 653 5400 DD: 0131 653 redacted M: redacted

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Cabinet Secretary for Rural Economy and Tourism



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Fergus Ewing MSP

T : 0300 244 4000

E : scottish.ministers@gov.scot

(Redacted) on behalf of Mark Tennant  
redacted@scottishlandandestates.co.uk

Our Reference: 202000061472

Your Reference: Helping It Happen Awards

Dear Redacted,

Your Chairman, Mark Tennant wrote to Fergus Ewing MSP, Cabinet Secretary for the Rural Economy on 9 July, inviting him to the online Helping it Happen Awards event 2020.

Mr Ewing would be delighted to accept the invitation and will be happy to provide a recorded video message for the awards event. I would be grateful if you could contact the Minister's Diary Secretary, redacted, via email at [CabSecRET@gov.scot](mailto:CabSecRET@gov.scot) to arrange a telephone call at a mutually convenient date for Mark Tennant to discuss the awards in more detail with Mr Ewing.

Yours sincerely

**Redacted**  
**PRIVATE SECRETARY**



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Until 2020



09 July 2020



Cabinet Secretary for the Rural Economy and Tourism  
The Scottish Government  
St. Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

By email:  
[CabSecRET@gov.scot](mailto:CabSecRET@gov.scot)

Dear Cabinet Secretary,

### **Helping It Happen Awards 2020**

It is my pleasure to invite you to be part of this year's Helping It Happen Awards by contributing a recorded video message of support for the fantastic work of our finalists, and indeed for all of rural Scotland.

The Helping It Happen Awards have fast become one of Scotland's leading awards programmes, shining a light on the businesses across Scotland who play a key role in helping rural Scotland thrive.

Unfortunately, due to the current circumstances, we have taken the decision not to hold a physical awards ceremony this year. However, in these difficult times it remains vital that we shine a light on the fantastic work happening throughout rural Scotland, and as such we intend to hold a digital, prerecorded awards ceremony, broadcast online, to announce the 2020 Helping It Happen Award winners.

As part of this pre-recorded awards video, we would be delighted if you could contribute a short video message to show your support for the numerous rural businesses, farmers, landowners, and communities who are helping rural Scotland thrive.

Your video clip would be around 2 minutes in length, where you could perhaps extol the importance of sharing good examples of rural success to inspire others and encourage more of the same work, and we would be looking to have this recorded before the end of August 2020. The Scotland Office has confirmed that the Parliamentary Under Secretary of State would like to contribute a similar video. We would be delighted if the awards ceremony could contain a message of support from the Scottish Government, as well as the UK Government.

I would be grateful if you could let my colleague (Redacted) Public Affairs Manager, know if you are interested in taking part and then perhaps we can arrange a call to discuss the awards in more detail. (Redacted) can be contacted on redacted @scottishlandandestates.co.uk or on (redacted).

We very much hope you will be able to take part in this year's Helping It Happen Awards celebrating the best of rural Scotland and look forward to hearing from you soon.

Yours sincerely,



**Mark Tennant Chairman, Scottish Land & Estates**

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18 August 2020

Fergus Ewing MSP  
Cabinet Secretary for Rural Economy and Tourism  
The Scottish Government  
St Andrew's House Regent Road  
Edinburgh  
EH1 3DG

Dear Cabinet Secretary,

The Agriculture (Retained EU Law and Data) (Scotland) Bill provides the Scottish Government with an opportunity to show the agricultural sector a clear direction of travel for future policy. We support the principles and intention of this Bill but feel that the Scottish Government should go further by introducing a purpose clause to clearly show the sector that any secondary legislation will be written with clear principles in mind.

The purpose clauses tabled for Stage 2 of the debate were heavily influenced by the January 10<sup>th</sup> 2019 motion S5M15279: *"That the Parliament acknowledges that future policy for Scotland's rural economy should be founded on key principles, including sustainability, simplicity, innovation, inclusion, productivity and profitability; recognises that it should seek to maintain flourishing communities, enable farmers and crofters to continue to deliver high-quality goods and services through food production and stewardship of the countryside and Scotland's natural assets, and encourage diverse land use..."*. This motion also called for the creation of the Farming and Food Production Future Policy Group.

The new Farming and Food Production Future Policy Group was broadly welcomed and output from the group was identified as a clear point when the sector would understand more about the government's intention for future policy as proposed by a select group of industry representatives. The group's final report would have been a welcome addition for Stage 3 consideration but whilst we await their recommendations, we still feel the principles behind the group's formation could be included in this Bill.

We therefore call on Scottish Government to support the introduction of a purpose clause in the Agriculture (Retained EU Law and Data) (Scotland) Bill to ensure secondary legislation from this Bill has a clear direction:

- Enabling agricultural activity in Scotland to play its role in meeting Scotland's Net-Zero target and increasing the sector's resilience to climate change
- Encouraging innovation, productivity, profitability, and resilience in agriculture
- Encouraging inclusion and diversity within agriculture and improving working conditions in the sector
- Improving and safeguarding Scotland's natural capital through maintaining, restoring and enhancing biodiversity and landscapes, as called for in the Green Recovery
- Delivering flourishing rural communities and improving food security for healthy sustainable diets
- Facilitating local supply chains, increasing procurement of Scottish produce and encouraging collaborative working.

Clearly showing the agriculture sector where the Scottish Government's ambition lies would provide much needed clarity and confidence as rural businesses begin to operate in a post-Brexit and post-Covid environment. The sector needs the confidence to target investments and plan appropriately, this can only be delivered with clear signals from the Scottish Government. Stability for a short period of time is necessary but the only value it brings is if the sector knows what lies beyond it and can begin preparing now.

Yours Sincerely,

**Sarah-Jane Laing – Chief Executive, Scottish Land & Estates**



**Aoife Behan – Director, Soil Association Scotland**



**Pete Ritchie - Convener of Scottish Environment LINK's Food and Farming Group**



**David Noble - Chairman, Game & Wildlife Conservation Trust Scotland**



**Michael Clarke- Chair of the Scotland Nature Friendly Farming Network**



**Martin Beard- Rare Breed Survival Trust Scotland**





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To:  
Scottish Land and Estates  
NFUS  
SAAVA  
RICS  
Tenant Farming Commissioner

6 April 2020

Dear all,

I am writing to you about the tenants amnesty. You will be aware that the STFA have written to me about the difficulties of completing amnesty in the current period, given the restrictions we face. I am aware that the 2016 Act provides a legal process which can continue to operate, provided a formal amnesty notice is served before the amnesty period expires. However, in order to ease pressure on tenants, landowners and agents at this difficult time, I have asked my officials to explore legislative options for extending the amnesty period for 6 months.

However, I must be clear that these are complex times and there is significant pressure on Parliamentary time. Whilst we will work to extend the amnesty, I cannot guarantee that extension at this stage. Therefore, you will wish to advise your members that tenants must be prepared to use the existing formal legal process and to serve an amnesty notice on their landlord if the extension cannot be achieved. I will ask my officials to keep you updated on progress so that you can inform your members of the most up to date position.

Yours sincerely,

**FERGUS EWING**

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