

# Net Zero, Energy and Transport Committee

6<sup>th</sup> Meeting, 2023 (Session 6)

Tuesday, 21 February 2023

## SSI cover note for: The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Amendment Regulations 2023 [draft]

<b>Title of Instrument:</b>	<a href="#">Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Amendment Regulations 2023</a> [draft]
<b>Type of Instrument:</b>	Affirmative
<b>Laid Date:</b>	23 January 2023
<b>Circulated to Members:</b>	27 January 2023
<b>Meeting Date:</b>	21 February 2023
<b>Minister to attend meeting:</b>	Yes
<b>Motion to approve:</b>	<a href="#">S6M-07603</a>
<b>Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee?</b>	No
<b>Reporting deadline:</b>	12 March 2023

## Background

1. Individuals and entities who can influence or control decisions over a certain piece of land must ensure these details are declared in a Register of Persons Holding a Controlled Interest in Land (RCI). The current requirements to comply with new Regulations on the RCI came into force last year, with a further one-year transition period being established to allow time for implementation. Offences for persons or

entities failing to declare this information will presently come into effect from 1 April 2023.

2. These Regulations seek to delay the date in which the transitional period comes to an end by a period of twelve months from the current deadline to 1 April 2024. The Scottish Government says this extension owes to the challenging set of circumstances which stakeholders are currently facing and will allow stakeholders to fully prepare for their new obligations around the RCI.

3. An electronic copy of the Regulations is available at: <https://www.legislation.gov.uk/sdsi/2023/9780111056295/contents>

4. A copy of the Scottish Government's Explanatory and Policy Notes are included in **Annexe A**.

## **Delegated Powers and Law Reform Committee consideration**

5. At its meeting on 31 January 2023, the Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

## **Procedure for Affirmative instruments**

6. The draft Regulations were laid on 23 January 2023 and referred to the Net Zero, Energy and Transport Committee. The Regulations are subject to affirmative procedure (Rule 10.6). It is for the Net Zero, Energy and Transport Committee to recommend to the Parliament whether the Regulations should be approved. The Minister for Environment and Land Reform has, by motion S6M-07603 (set out in the agenda), proposed that the Committee recommends the approval of the Regulations. The Committee will take evidence on the instrument from the Minister and officials before the motion is debated.

## **Recommendation**

7. The Committee must decide whether or not to agree to the motion, and then report to Parliament accordingly, by 12 March 2023.

Clerks  
Net Zero, Energy and Transport Committee

# Annexe A

## Scottish Government Explanatory Note

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Land Reform (Scotland) 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021 (“the Principal Regulations”) and come into force on 1 April 2023.

Regulation 2(2) substitutes a new sub-paragraph (4)(b) in regulation 26(4) (application of these Regulations) of the Principal Regulations. The effect of the amendment is to extend the transitional period to 1 April 2024.

No business and regulatory impact assessment has been prepared for these Regulations.

## Scottish Government Policy Note

### POLICY NOTE

#### THE LAND REFORM (SCOTLAND) ACT 2016 (REGISTER OF PERSONS HOLDING A CONTROLLED INTEREST IN LAND) AMENDMENT REGULATIONS 2023

#### SSI 2023/XXX

The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Amendment Regulations 2023 were made in exercise of the powers conferred under The Land Reform (Scotland) Act 2016. The instrument is subject to affirmative procedure.

### Summary Box

#### Purpose of the Instrument

The purpose of the instrument is to amend The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021. The 2021 Regulations set out extensive provision for the establishment of a Register of controlled interests in land. The Register requires the registration of the owners and tenants of land (known as recorded persons), and persons or entities who have control over how the recorded person uses the land (known as associates). The Register came into force on 1 April 2022. However, there is a transitional period in respect of the offence provisions. This transitional period is due to come to an end on 1 April 2023.

This instrument amends the 2021 Regulations to extend the transitional period by 12 months to 1 April 2024.

## **Policy Objectives**

The purpose of the Register of Persons Holding a Controlled Interest in Land (“the Register”) is to increase public transparency in relation to individuals who have control over decision making in relation to land.

The 2021 Regulations followed the super-affirmative procedure and were subject to significant policy development including two public consultations and consultation with key stakeholders. In addition there was considerable Parliamentary scrutiny, including multiple Committee evidence sessions, over the course of three Parliamentary laying periods.

Despite the extensive consultation and Parliamentary scrutiny, in recent months, some stakeholders have raised concerns in relation to the cost of compliance with the RCI and the maintenance of entries, owing to the number of titles they hold or the complex nature of their structure.

Extending the transitional period by 12 months will ease the burden on those in scope of the RCI by giving them more time to prepare their submissions before the offence provisions take effect. The requirement to register is maintained, but an extension alleviates the immediate pressure to comply at this difficult time, owing to Brexit, Covid, and inflationary pressures.

An extended transitional period will also allow for a further, targeted programme of stakeholder engagement and awareness raising.

## **Consultation**

In accordance with section 39(7) of The Land Reform (Scotland) Act 2016, the instrument was prepared in consultation with the Keeper of the Registers of Scotland (“the Keeper”).

The Keeper has confirmed that the instrument is workable from a Registers of Scotland perspective and they will be in a position to manage the impact of the amendment on RCI registrations.

## **Impact Assessments**

This instrument does not change the purpose of, or requirements in relation to the Register of Persons Holding a Controlled Interest in Land in the 2021 Regulations, and so it is accounted for in the impact assessments carried out for those Regulations. The following impact assessments for the Regulations for the Register have been published:

- The Data Protection Impact Assessment (DPIA)
- The Business and Regulatory Impact Assessment (BRIA)
- The Equalities Impact Assessment (EQIA)

## Financial Effects

This instrument does not introduce any additional requirements to those contained in The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021. A [Business and Regulatory Impact Assessment \(BRIA\) was completed](#) for the 2021 Regulations.

Scottish Government officials were in contact with key stakeholders throughout the development of The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021 and also met with them during the consultation on those Regulations. These were broadly representative of potential business interests.

Scottish Government  
Directorate for Agriculture and Rural Economy  
January 2023