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Convener
Environment, Climate Change, and Land
Reform Committee
Scottish Parliament
Edinburgh

23 January 2020

Dear Gillian,

Land Reform (Scotland) Act 2016: Part 3 – Information about control of land

I am pleased to inform the Committee that I have today laid in Parliament a second draft of the Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) (Scotland) Regulations. This is accompanied by a draft explanatory document, including a report outlining key changes made to the regulations following their first laying and a public consultation. We have also published an updated Business and Regulatory Impact Assessment, Data Protection Impact Assessment, and Equalities Impact Assessment for the proposed draft Regulations. This is another significant step in the implementation of the Land Reform (Scotland) Act 2016 ('the Act'), and our proposals will greatly increase public transparency about individuals who have control over decision-making in relation to land.

As you know, this is the second laying of these draft Regulations under an 'enhanced' affirmative procedure which brings a number of statutory requirements as set out in the Act. Section 40(b) of the Act requires Ministers to lay a copy of proposed draft regulations in Parliament for the purposes of consulting the Keeper of the Registers of Scotland and others, alongside a copy of the proposed explanatory document. This first laying was done on the 20 June 2018, with the consultation period ending on the 8 November 2018.

Subsequently, Ministers must lay a further draft of the regulations, having had regard to any representations made about the proposed draft during the public consultation, together with an updated version of the explanatory document that explains any changes. It is this further draft and revised explanatory document which I have laid today.

I have welcomed the Committee's scrutiny throughout this process, and the engagement we have had with a range of stakeholders. I am confident that this

process will help ensure that the regulations provide the increased transparency I believe is necessary, while avoiding undue burden and complexity for those required to register.

As you will be aware, following conclusion of the second laying, Ministers are required to lay the regulations for a third, and final, time, at which point they will revert to the standard affirmative procedure. This third laying will provide the opportunity to fully set out how the regulations have developed throughout each stage, and where and how we have responded to stakeholder, public, and Committee feedback.

The draft explanatory document sets out our proposals in detail, and chapter 4 of the explanatory document outlines the key changes made to the draft Regulations following the formal consultation and representations made.

My officials are continuing to liaise with their UK Government counterparts in relation to a potential UK Parliament Bill to establish a register of overseas entities' beneficial ownership which will apply to overseas legal entities who own land in the UK. While Scottish Ministers have given a commitment to avoid, where possible, double reporting under our register and any potential UK register, in order to provide flexibility in case the UK proposals do not come to fruition, and to avoid delay, our draft regulations being laid today continue to contain provisions to capture information on overseas entities.

The timeline for when the UK Government plan to publish their proposals in a draft Bill is currently unknown, as the proposals were not mentioned in the most recent Queen's Speech on the 19 December 2019. When they do so we will consider whether we should take account of their proposals by adjusting our draft regulations ahead of the final laying.

Should their proposals be introduced and passed by the UK Parliament following the final laying of these draft regulations, then we would consider whether they meet the aims of our register and whether or not these Regulations should subsequently be amended.

My officials will continue to liaise with the Committee Clerks to assist in the scheduling of the scrutiny of our proposals, and I would welcome the opportunity to provide further evidence should the Committee require.

Yours

A handwritten signature in dark ink, appearing to read 'Roseanna', with a large, stylized initial 'R'.

Roseanna Cunningham