

**Cabinet Secretary for Rural Affairs, Land
Reform and Islands**
Mairi Gougeon MSP



Cabinet Secretary for Social Justice
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Collette Stevenson MSP
Convener
Social Justice and Social Security Committee
Scottish Parliament
Edinburgh

12 June 2023

Dear Convener,

Charities (Regulation and Administration) (Scotland) Bill – Register of Persons Holding a Controlled Interest in Land (RCI)

As the Cabinet Secretaries with responsibility for the Register of Persons Holding a Controlled Interest in Land (RCI) and the Charities (Regulation and Administration) (Scotland) Bill respectively, we are writing to you to provide background to the RCI and to set out why the Charities Bill is not the place to make changes to the RCI Regulations.

The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021 established a register of individuals who have control over decision-making in relation to land. The policy intention of the RCI is to ensure that there can no longer be categories of land owner or tenant where, intentionally or otherwise, control of decision-making is obscured. The RCI is a central tenet of our approach to land reform and seeks to improve the transparency of land ownership and control in Scotland. These measures have cross party support: the affirmative SSI establishing the RCI was passed unanimously by the Scottish Parliament.

The Charities Bill aims to strengthen and update the current legislative framework for charities. It introduces a new duty on OSCR at section 2 to publish the names of a charity's trustees on the Scottish Charity Register, increasing transparency and accountability in charities by improving public access to information about a charity's operations. The inclusion of charity trustee names on the existing charity register will enhance the transparency of those in management and control of a charity.

Charity regulation is fundamentally in place to ensure public trust in the operation of charities. This is not the same as the purpose of the RCI, which is to improve transparency in relation to land and property assets, irrespective of what type of legal entity owns them. It may seem surprising, but there is not always a direct link between a charity trustee and property held by the charity. The RCI serves to ensure that there is a direct link between the property and whoever exercises a controlled interest in that property.

In recent months, some religious stakeholders – particularly the Church of Scotland – have raised concerns about the costs of compliance with the RCI, owing to the number of titles they hold (c. 6000) and the complex nature of their internal decision-making structures. There is no cost to make a submission to the Register, but some of those in scope will instruct a solicitor to do so on their behalf, and there is a degree of preparatory work required prior to making a submission. Key stakeholders, including religious bodies, were involved in developing the Regulations from as early as 2016.

We understand these concerns and that to comply with the RCI has been challenging for some. In response to these concerns, the then Minister for Environment and Land Reform, Màiri McAllan, introduced an SSI to Parliament in January 2023 to extend the transitional period of voluntary compliance by 12-months to 1 April 2024. The SSI was supported by the Net Zero, Energy and Transport Committee, and the motion was unanimously passed by the Scottish Parliament in March.

This extension was provided specifically to 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 Scottish Government and Registers of Scotland are working together to deliver an additional engagement plan to support stakeholders through the process. This will include a programme of further awareness raising, but we do not intend further legislative intervention or offering stakeholders legal advice. There is already extensive guidance on the Registers of Scotland website, but the Scottish Government will continue to monitor this, and review and update it where required.

Officials from the Scottish Government's Land Reform and Faith and Belief Teams will continue to explore what further steps can be taken to help raise awareness amongst religious organisations, and how they might be supported to comply with the RCI.

The coming year is an opportunity to make use of all this support offered to the Church of Scotland, and others, to take steps to achieve compliance with the RCI by 1 April 2024.

We want to assure you that the Scottish Government has had considerable engagement with the Church of Scotland on the RCI. Their concerns were raised at the annual meeting between the Moderator of the Church of Scotland and the then First Minister in June 2022. Officials met with Church of Scotland representatives in August 2022 and Ms McAllan met with representatives of the Church of Scotland and other denominations in September 2022 to discuss their concerns.

The Scottish Government wrote to the Church of Scotland in November and December 2022 and January 2023 about the RCI, and more recently on 16 February, 27 March, and 30 May 2023 to further address their points of concern. These letters included an offer of another meeting with Registers of Scotland and Scottish Government officials to discuss how they can be supported to achieve compliance. This meeting is due to take place later this month.

The RCI 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 became operational on 1 April 2022 for a transitional period of voluntary registration prior to becoming mandatory. The details provided through the Scottish Charity Register do not provide the same level of transparency as RCI does. For anyone wishing to enquire about church or charity property, they must first ascertain who owns the property. While this is relatively straightforward for assets on the Land Register, most of the property held by churches is still on the General Register of Sasines.

Scotland can be proud of having a property register that dates back to the 1600s, but it does mean that extracting and understanding information from the Sasines Register is difficult, even for qualified solicitors. By contrast, the RCI provides a free-to-search online register of who to contact about property or land.

We hope this letter clarifies why the RCI is necessary and should not be amended further. A Bill about charity regulation would not in any case be the right vehicle to seek to alter the RCI Regulations, which have already been subject to Parliamentary scrutiny.

Yours,

A handwritten signature in black ink, appearing to read 'Mairi Gougeon'.

MAIRI GOUGEON

A handwritten signature in black ink, appearing to read 'Shirley-Anne Somerville'.

SHIRLEY-ANNE SOMERVILLE