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Net Zero, Energy and Transport Committee

Net Zero, Energy and Transport Committee report on The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Amendment Regulations 2023 [draft]

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Net Zero, Energy and Transport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Net Zero, Energy and Transport, with the exception of matters relating to rural land use, wildlife crime and animal welfare.



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Introduction

1. [The Land Reform \(Scotland\) Act 2016 \(Register of Persons Holding a Controlled Interest in Land\) Amendment Regulations 2023](#) [draft] was laid before Parliament on 23 January 2023 and is subject to the affirmative procedure. The draft instrument was referred to the Net Zero, Energy and Transport Committee for consideration.
2. It is for the Net Zero, Energy and Transport Committee to recommend to the Scottish Parliament whether the Regulations should be approved. The Minister for Environment and Land Reform, Màiri McAllan MSP, lodged motion [S6M-07603](#) which recommended the Committee approve the Regulations.
3. The instrument relates to the implementation of the Register of Persons Holding a Controlled Interest in Land (RCI). The RCI was established in secondary legislation passed by the Scottish Parliament in 2021 and confers duties on owners of land and persons or entities with influence or control over how the land is used to declare this information in the Register.
4. The RCI came into force on 1 April 2022. A twelve-month transitional period was created before offence provisions came into effect, meaning stakeholders must ensure this information is recorded in the RCI by 1 April 2023.
5. [The Policy Note](#) accompanying the instrument states its purpose is to delay the date in which the transitional period comes to an end by a period of twelve-months from the current deadline.

Consideration by the Delegated Powers and Law Reform (DPLR) Committee

6. At its meeting on 31 January 2023, the DPLR Committee considered the draft Regulations. [The Committee's report, published on 1 February 2023](#), determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

[Read the Official Report from 31 January 2023.](#)

Consideration by the Net Zero, Energy and Transport Committee

7. At its meeting on 21 February 2023, the NZET Committee took evidence on the draft Regulations from—
- Màiri McAllan, Minister for Environment and Land Reform, Scottish Government;
 - Rebecca Parry, Lawyer, Scottish Government;
 - Paul Richardson, Senior Policy Advisor, Land Reform, Scottish Government; and
 - Fiona Taylor, Head of Land Use and Land Reform Unit, Scottish Government.

8. The evidence taken and debate held at that meeting regarding this instrument can be found in the Official Report.

[Read the Official Report from 21 February 2023.](#)

9. In opening remarks, the Minister explained the rationale behind the extension of the transition period. She indicated that prolonging the end date would help to alleviate some of the immediate pressures faced by stakeholders to comply with their new obligations.ⁱ
10. The Committee explored concerns raised by churches about the number of applications they would be required to make in the RCI. The Minister said the Church of Scotland owns a large number of titles across Scotland and it was important this information was correctly recorded in the RCI.ⁱⁱ
11. Members questioned if the Minister had explored ways to reduce the number of applications a denominations would have to make, if it had multiple titles that would be subject to the RCI. The Minister said she had held discussions with churches to explore a number of options they had suggested, however it was the Scottish Government's view that all of these would have negatively impacted the functionality of the RCI.ⁱⁱⁱ
12. The Committee asked which sectors had raised concerns about their compliance with the RCI. The Minister said issues had principally been highlighted by religious stakeholders, but noted that similar concerns were also apparent across the wider charitable and third sector.^{iv}
13. Members probed what engagement the Scottish Government has undertaken with religious stakeholders to work through the practical difficulties they face around the RCI. The Minister said engagement with religious bodies has been ongoing for a

ⁱ Net Zero, Energy and Transport Committee. [Official Report, 21 February 2023](#), col 3.

ⁱⁱ Net Zero, Energy and Transport Committee. [Official Report, 21 February 2023](#), col 4.

ⁱⁱⁱ Net Zero, Energy and Transport Committee. [Official Report, 21 February 2023](#), col 4.

^{iv} Net Zero, Energy and Transport Committee. [Official Report, 21 February 2023](#), col 5.

number of years.^v She listed a number of occasions when these discussions took place and stated she was committed to support their registration and compliance with the scheme.^{vi}

14. The Committee examined if a more flexible approach to introducing the RCI could have been more appropriate. The Minister said the approach being taken would ensure consistency in the implementation of the scheme and avoid duplication with other UK regimes.^{vii} For recording complex structures and legal titles in the RCI, the Minister noted that she expected all information to be narrated accurately and, if in doubt, individuals or entities should seek legal advice on what should be reported.^{viii}
15. The Committee asked "has it been reported back from the consultation with stakeholders that the 12-month extension is welcome, that 12 months is the right amount of time and that it will ease the burden and the cost?". The Minister responded "I thought that the original year was sufficient; the extension is an allowance for the concerns that have been raised with me".^{ix}
16. The Committee queried what action the Scottish Government was taking to strengthen transparency in the upcoming land reform bill. The Minister said three principal provisions were outlined in the consultation for the bill with the purpose of improving transparency—
 - Making compliance with the Scottish Land Rights and Responsibilities Statement a statutory obligation;
 - Establishing a new collaborative approach to Land Management Plans; and
 - Introducing a public interest test.^x
17. Following the conclusion of evidence taking, the Minister moved motion S6M-07603 in her name—

That the Net Zero, Energy and Transport Committee recommends that the The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Amendment Regulations 2023 [draft] be approved.
18. There was a debate in which various contributions were made by Members as to why they could or could not support the motion.^{xi} A number of points were discussed—
 - Some Members said they saw the extension to the RCI deadline as a pragmatic way to address the issues raised by stakeholders.
 - Concerns were raised by a number of Members around the level of

^v Net Zero, Energy and Transport Committee. [Official Report, 21 February 2023](#), col 8.

^{vi} Net Zero, Energy and Transport Committee. [Official Report, 21 February 2023](#), col 6.

^{vii} Net Zero, Energy and Transport Committee. [Official Report, 21 February 2023](#), col 7.

^{viii} Net Zero, Energy and Transport Committee. [Official Report, 21 February 2023](#), col 9.

^{ix} Net Zero, Energy and Transport Committee. [Official Report, 21 February 2023](#), cols 8-9.

^x Net Zero, Energy and Transport Committee. [Official Report, 21 February 2023](#), col 5.

engagement the Scottish Government had undertaken with religious stakeholders to find practical solutions to the problems they are facing around complying with the RCI.

- Members highlighted the importance of the Committee continuing to monitor this situation as it develops.
- In closing the debate, the Minister reiterated her commitment to continue the dialogue with religious bodies to support them and others through the process.

19. After the debate, motion S6M-07603 was agreed to by division (For: 6, Against: 0, Abstain: 1).

Conclusion

20. The Net Zero, Energy and Transport Committee recommends that The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Amendment Regulations 2023 [draft] be approved.

