



# Land Reform (Scotland) Act 2016

## 2016 asp 18

### PART 3

#### INFORMATION ABOUT CONTROL OF LAND ETC.

##### *Information about persons with controlling interests in relation to land*

#### **39 Information about persons with controlling interests in owners and tenants of land**

- (1) The Scottish Ministers must by regulations make provision—
  - (a) requiring information to be provided about persons who have controlling interests in owners and tenants of land, and
  - (b) about the publication of that information in a public register kept by the Keeper of the Registers of Scotland.
- (2) Regulations under subsection (1) may, in particular, include provision about—
  - (a) which owners and tenants of land the regulations apply to,
  - (b) what constitutes a controlling interest in an owner or tenant,
  - (c) which persons are to be treated as having a controlling interest in an owner or tenant,
  - (d) what information must be provided under the regulations (and the manner in which it is to be provided),
  - (e) the circumstances in which information must be provided under the regulations,
  - (f) publication of information required under the regulations (including the form of the register and the entry of the information in it),
  - (g) the circumstances in which the information entered in the register may be corrected or updated,
  - (h) the circumstances in which a person who has a controlling interest in an owner or tenant can request that information about that person not be published (including, in particular, where the publication of that information might result in the person being at a serious risk of violence or abuse, threat of violence or abuse or intimidation),

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- (i) the effect of providing (or failing to provide) information required under the regulations,
  - (j) sanctions for failure to comply with requirements imposed under the regulations,
  - (k) delegation of functions under the regulations,
  - (l) fees payable in relation to the provision, publication or accessing of information under the regulations,
  - (m) appeals against decisions made under the regulations.
- (3) Regulations under subsection (1) may include provision for offences and civil penalties (including fixed penalties) for failure to comply with requirements imposed under the regulations.
- (4) Where regulations under subsection (1) include provision creating offences—
- (a) they must provide for those offences to be triable summarily only, and
  - (b) they must provide for the maximum penalty for those offences to be a fine, which must not exceed level 5 on the standard scale.
- (5) Where regulations under subsection (1) include provision for the imposition of civil penalties, they must include provision about appeals against decisions to impose those penalties.
- (6) Regulations under subsection (1) may modify any enactment (including this Act).
- (7) The Scottish Ministers must, before laying a draft of any regulations under subsection (1) before the Scottish Parliament, consult—
- (a) the Keeper, and
  - (b) such other persons as they consider appropriate.
- (8) Subsection (7) does not apply if section 40 applies.

**Commencement Information**

- I1** S. 39 in force at 17.5.2018 for specified purposes by [S.S.I. 2018/138, art. 2, sch. 1](#)
- I2** S. 39 in force at 16.12.2020 in so far as not already in force by [S.S.I. 2020/383, reg. 2](#)

*Procedure for first regulations under section 39*

**40 Procedure for first regulations under section 39**

The Scottish Ministers may not lay a draft of the first regulations under section 39(1) before the Scottish Parliament unless—

- (a) they have consulted in accordance with section 41, and
- (b) following that consultation, they have laid before the Scottish Parliament—
  - (i) proposed draft regulations, and
  - (ii) an explanatory document prepared in accordance with section 42.

**Commencement Information**

- I3** S. 40 in force at 17.5.2018 for specified purposes by [S.S.I. 2018/138, art. 2, sch. 1](#)

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**I4** S. 40 in force at 10.1.2020 in so far as not already in force by S.S.I. 2019/420, reg. 2(a)

#### **41 Procedure for first regulations under section 39: consultation**

- (1) Before laying a draft of the first regulations under section 39(1) before the Scottish Parliament, the Scottish Ministers must consult—
  - (a) the Keeper, and
  - (b) such other persons as they consider appropriate.
- (2) For the purposes of any consultation required by subsection (1), the Scottish Ministers must—
  - (a) lay before the Scottish Parliament—
    - (i) a copy of the proposed draft regulations, and
    - (ii) a copy of the proposed explanatory document referred to in section 40(b)(ii) (except the details required by section 42(1)(b)),
  - (b) send a copy of the proposed draft regulations and proposed explanatory document to any person to be consulted under subsection (1), and
  - (c) have regard to any representations about the proposed draft regulations that are made to them within the period of 60 days beginning with the date on which the copy of the proposed draft regulations is laid before the Parliament under paragraph (a).
- (3) In calculating any period of 60 days for the purposes of subsection (2)(c), no account is to be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.

#### **Commencement Information**

**I5** S. 41 in force at 17.5.2018 by S.S.I. 2018/138, art. 2, sch. 1

#### **42 Procedure for first regulations under section 39: explanatory document**

- (1) The explanatory document referred to in section 40(b)(ii) must—
  - (a) give reasons for the provisions contained in the proposed draft regulations,
  - (b) give details of—
    - (i) any consultation undertaken under section 41,
    - (ii) any representations received as a result of the consultation, and
    - (iii) the changes (if any) made to the proposed draft regulations as a result of those representations.
- (2) Where a person making representations in response to consultation under section 41 has not consented to the disclosure of the representations, the Scottish Ministers must not disclose them under subsection (1)(b)(ii).
- (3) If information in representations made by a person in response to consultation under section 41 relates to another person, the Scottish Ministers must not disclose that information under subsection (1)(b)(ii) if or to the extent that—
  - (a) it appears to the Scottish Ministers that the disclosure of that information could adversely affect the interests of that other person, and

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- (b) the Scottish Ministers have been unable to obtain the consent of that other person to the disclosure.
- (4) Subsections (2) and (3) do not affect any disclosure that is requested by, and made to, a committee of the Parliament charged with reporting on the proposed draft regulations.

#### Commencement Information

- I6** S. 42 in force at 17.5.2018 for specified purposes by S.S.I. 2018/138, art. 2, sch. 1
- I7** S. 42 in force at 10.1.2020 in so far as not already in force by S.S.I. 2019/420, reg. 2(b)

PROSPECTIVE

*Information relating to proprietors of land etc.*

#### **43 Power of Keeper to request or require information relating to proprietors of land etc.**

- (1) The Land Registration etc. (Scotland) Act 2012 is amended as follows.
- (2) After section 48 insert—

*“Entry of information relating to categories of owners and tenants in the register*

#### **48A Power to request or require information relating to categories of owners and tenants**

- (1) The Scottish Ministers may, by regulations, make provision enabling the Keeper to request or, as the case may be, require information relating to the category of person or body into which a person mentioned in subsection (2) falls.
- (2) The persons referred to in subsection (1) (“relevant persons”) are—
  - (a) owners of plots of land,
  - (b) proprietors of registered plots of land and registered leases, and
  - (c) tenants of leases which are registered or registrable.
- (3) Regulations under subsection (1) may, in particular, make provision—
  - (a) about the persons who are owners, proprietors and tenants for the purposes of subsection (2),
  - (b) about the information, relating to the category of person or body into which a relevant person falls, provision of which may be requested or required,
  - (c) about the form in which the information is to be provided, which may consist of (or include) declarations by, or on behalf of, relevant persons about the category of person or body into which a relevant person falls,
  - (d) about the circumstances in which information may be requested,

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- (e) about the circumstances in which information requires, and does not require, to be provided,
  - (f) about the effect (if any) of providing (or not providing) information,
  - (g) about the entry of the information in the register,
  - (h) about whether the Keeper's warranty under Part 7 is to apply in relation to information obtained under the regulations,
  - (i) about the circumstances in which information obtained under the regulations may be corrected or updated,
  - (j) about the circumstances in which information obtained under the regulations may be provided to other persons,
  - (k) about the circumstances in which information obtained under the regulations may be published,
  - (l) for fees relating to the provision, correction or updating of information under the regulations.
- (4) Regulations under subsection (1) which make provision enabling the Keeper to require information may include provision relating to offences for failure to comply with requirements imposed by the regulations.
- (5) Where regulations under subsection (1) include provision creating offences—
- (a) they must provide for those offences to be triable summarily only, and
  - (b) they must provide for the maximum penalty for those offences to be a fine, which must not exceed level 3 on the standard scale.
- (6) The Scottish Ministers must consult the Keeper before laying a draft of regulations under subsection (1) before the Scottish Parliament.
- (7) Regulations under subsection (1) may include such incidental, supplementary or consequential provision as the Scottish Ministers consider appropriate for the purposes of, or in connection with, the regulations.
- (8) Regulations under subsection (1) may modify any enactment (including this Act).

#### **48B Power to enter information relating to categories of owners and tenants in the register**

- (1) The Scottish Ministers may, by regulations, make provision enabling the Keeper to enter, in the register, information relating to the category of person or body into which a person mentioned in subsection (2) falls.
- (2) The persons referred to in subsection (1) (“relevant persons”) are—
- (a) owners of plots of land,
  - (b) proprietors of registered plots of land and registered leases, and
  - (c) tenants of leases which are registered or registrable.
- (3) Regulations under subsection (1) may, in particular, make provision—
- (a) about the persons who are owners, proprietors and tenants for the purposes of subsection (2),
  - (b) about notification by the Keeper of the intention to enter the information,

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- (c) about the circumstances in which the Keeper may enter the information,
  - (d) for the information that may be entered and the form in which it is to be entered,
  - (e) about the effect (if any) of entering the information,
  - (f) about whether the Keeper's warranty under Part 7 is to apply in relation to information entered under the regulations,
  - (g) about the circumstances in which information entered under the regulations may be corrected or updated,
  - (h) about the circumstances in which information entered under the regulations may be provided to other persons,
  - (i) about the circumstances in which information entered under the regulations may be published,
  - (j) for fees relating to the correction or updating of information under the regulations.
- (4) The Scottish Ministers must consult the Keeper before laying a draft of regulations under subsection (1) before the Scottish Parliament.
- (5) Regulations under subsection (1) may include such incidental, supplementary or consequential provision as the Scottish Ministers consider appropriate for the purposes of, or in connection with, the regulations.
- (6) Regulations under subsection (1) may modify any enactment (including this Act).”.
- (3) In section 116 (subordinate legislation), in subsection (3), after paragraph (b) insert—
- “(ba) section 48A(1),
  - (bb) section 48B(1).”.
- (4) In section 121 (Crown application)—
- (a) in subsection (1), after first “Crown” insert “ of a requirement imposed by regulations under section 48A or ”,
  - (b) in subsection (3)—
    - (i) for “section 112 applies” substitute “ regulations under section 48A and section 112 apply ”,
    - (ii) for “it applies” substitute “ they apply ”.

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.S.I. 2017/299, regs. 5-14, by [S.S.I. 2017/370 reg. 34](#)