
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 372 (C. 35)

LAND REFORM

**The Land Reform (Scotland) Act 2016 (Commencement
No. 4, Transitional and Saving Provisions) Regulations 2016**

Made - - - - 10th November 2016
Laid before the Scottish
Parliament - - - - 14th November 2016
Coming into force - - 31st December 2016

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 130(2) and (4) of the Land Reform (Scotland) Act 2016⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Land Reform (Scotland) Act 2016 (Commencement No. 4, Transitional and Saving Provisions) Regulations 2016 and come into force on 31st December 2016.

(2) In these Regulations—

“the 2003 Act” means the Land Reform (Scotland) Act 2003⁽²⁾;

“the 2016 Act” means the Land Reform (Scotland) Act 2016;

“core paths plan” means a plan adopted under section 18 (core paths plan: further procedure) of the 2003 Act, or such a plan as amended under section 20 (review and amendment of plan) of that Act; and

“relevant review” means a review and amendment of a core paths plan under section 20 of the 2003 Act which has begun prior to 31st December 2016, but in respect of which notice has not been given under section 18(8)(a) of the 2003 Act (as applied by section 20(5) or (7) of that Act) prior to that date.

Appointed day

2. 31st December 2016 is the day appointed for the coming into force of sections 83 (core paths plans) and 84 (access rights: service of court applications) of the 2016 Act.

(1) 2016 asp 18.

(2) 2003 asp 2.

Transitional provisions: amendment of core paths plan

3.—(1) Sections 20A (review and amendment of plan: further procedure) and 20B (review and amendment of plan: notice to owners and occupiers of land) of the 2003 Act apply to a relevant review as they apply to a review and amendment of a core paths plan under section 20 of the 2003 Act which begins on or after 31st December 2016, subject to paragraphs (2) to (5).

(2) Anything done under section 18 of the 2003 Act (as applied by section 20(7) of that Act) in relation to a relevant review prior to 31st December 2016 has effect as if it had been done under section 20A of the 2003 Act.

(3) Where, in relation to a relevant review, a plan has been made available for inspection under section 18(1)(b) of the 2003 Act (as applied by section 20(7) of that Act) prior to 31st December 2016, section 20A(1)(b) is to be read as if the words “the original plan and” were omitted.

(4) Where, in relation to a relevant review, a local authority has complied with section 18(1) of the 2003 Act (as applied by section 20(7) of the 2003 Act) prior to 31st December 2016 and—

- (a) in the case where no objections have been made, or any made are withdrawn, but the local authority have not yet adopted the amended plan under section 18(2) of the 2003 Act (as applied by section 20(7) of that Act); or
- (b) in the case where objections have been made and not withdrawn but the Scottish Ministers have not yet made a direction under section 18(7) of the 2003 Act (as applied by section 20(7) of that Act),

section 20B(1) is to be read as if the words “, at the same as complying with section 20A(1),” were omitted.

(5) Section 20B does not apply to a relevant review where, prior to 31st December 2016, the amended plan has been adopted under section 18(2) or the Scottish Ministers have made a direction under section 18(7) of the 2003 Act (in each case as applied by section 20(7) of the 2003 Act).

Saving provision: judicial determination of existence and extent of access rights

4. Where, prior to 31st December 2016, an application has been served under section 28 (judicial determination of existence and extent of access rights and rights of way) of the 2003 Act, the modifications of section 28 of the 2003 Act made by section 84 of the 2016 Act have no effect in relation to that application.

St Andrew’s House,
Edinburgh
10th November 2016

R CUNNINGHAM
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to bringing into force sections 83 (core path plans) and 84 (access rights: service of court applications) of the Land Reform (Scotland) Act 2016 (“the 2016 Act”).

Section 83 modifies the existing procedure for the review and amendment of core path plans provided for by the Land Reform (Scotland) Act 2003 (“the 2003 Act”). It inserts section 20A (review and amendment of core paths plan: further procedure), section 20B (review and amendment of core paths plan: notice to owners and occupiers of land), section 20C (single amendment of core paths plan: procedure) and section 20D (single amendment of core paths plan: further procedure) into the 2003 Act. Section 84 amends the requirements as to service of an application under section 28 of the 2003 Act for the judicial determination of the existence and extent of access rights.

Regulation 2 appoints 31st December 2016 for the coming into force of these provisions of the 2016 Act.

Regulation 3 makes transitional provisions as regards the application of the modifications made by section 83 of the 2016 Act to a “relevant review”, which is defined in regulation 2 to mean a review and amendment of a core paths plan which has begun prior to 31st December 2016 but which is not complete by that date.

The effect of regulation 3(2) is that anything done under the old law before 31st December 2016 will have effect as if it had been done under the new law. Regulation 3(3), (4) and (5) make provision to adapt certain aspects of the new law to relevant reviews. Where a plan has already been made available for inspection under the old law, regulation 3(3) takes account of the fact that the old law did not require both the original and amended plans to be made available for inspection, and disapplies the requirement in the new law to make the original plan available. Where the consultation requirements under the old law have already been complied with by 31st December 2016, regulation 3(4) disapplies the requirement that the notice under section 20B of the 2003 Act must be served at the same time as the requirements of section 20A(1) are complied with. Regulation 3(5) disapplies the requirement for that notice to be served in the circumstances referred to in that paragraph.

Regulation 4 saves the old law for applications under section 28 of the 2003 Act which have been served prior to 31st December 2016.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Land Reform (Scotland) Act 2016 have been brought into force by commencement regulations made before the date of these Regulations.

<i>Provisions of the 2016 Act</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 1	1st October 2016	S.S.I. 2016/193
Section 2	1st October 2016	S.S.I. 2016/193
Section 3	1st October 2017	S.S.I. 2016/193

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Provisions of the 2016 Act</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 4(1) to (5)	1st November 2016	S.S.I. 2016/250
Section 4(6) to (8)	1st April 2017	S.S.I. 2016/250
Section 5	1st November 2016	S.S.I. 2016/250
Section 6	1st April 2017	S.S.I. 2016/250
Section 7	1st November 2016	S.S.I. 2016/250
Section 8	1st April 2017	S.S.I. 2016/250
Section 9	1st April 2017	S.S.I. 2016/250
Section 10	1st November 2016	S.S.I. 2016/250
Section 11	1st November 2016	S.S.I. 2016/250
Section 12(1), (2), (3)(a), (4) and (5)	1st November 2016	S.S.I. 2016/250
Section 12(3)(b) (partially)	1st November 2016	S.S.I. 2016/250
Section 13	1st November 2016	S.S.I. 2016/250
Section 14	1st November 2016	S.S.I. 2016/250
Section 15	1st November 2016	S.S.I. 2016/250
Section 16	1st November 2016	S.S.I. 2016/250
Section 17	1st November 2016	S.S.I. 2016/250
Section 18	1st November 2016	S.S.I. 2016/250
Section 19	1st November 2016	S.S.I. 2016/250
Section 20	1st November 2016	S.S.I. 2016/250
Section 21(1) and (2)	1st November 2016	S.S.I. 2016/250
Section 21(3)	1st April 2017	S.S.I. 2016/250
Section 22(1), (2), (3)(a)(ii) and (iii) and (b), (4) and (5)	1st April 2017	S.S.I. 2016/250
Section 22(3)(a)(i)	1st October 2017	S.S.I. 2016/250
Section 23	1st April 2017	S.S.I. 2016/250
Section 24	1st April 2017	S.S.I. 2016/250
Section 25	1st April 2017	S.S.I. 2016/250
Section 26	1st April 2017	S.S.I. 2016/250
Section 27(1), (2)(a) to (f) and (h) to (i) and (3) to (9)	1st April 2017	S.S.I. 2016/250
Section 28	1st April 2017	S.S.I. 2016/250
Section 29	1st April 2017	S.S.I. 2016/250
Section 30	1st April 2017	S.S.I. 2016/250
Section 31	1st April 2017	S.S.I. 2016/250
Section 32	1st April 2017	S.S.I. 2016/250

<i>Provisions of the 2016 Act</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 33	1st April 2017	S.S.I. 2016/250
Section 34	1st April 2017	S.S.I. 2016/250
Section 35	1st April 2017	S.S.I. 2016/250
Section 36	1st April 2017	S.S.I. 2016/250
Section 37	1st April 2017	S.S.I. 2016/250
Section 38	1st April 2017	S.S.I. 2016/250
Section 44	1st November 2016	S.S.I. 2016/250
Section 74	28th June 2016	S.S.I. 2016/193
Section 75	28th June 2016	S.S.I. 2016/193
Section 76	28th June 2016	S.S.I. 2016/193
Section 77	28th June 2016	S.S.I. 2016/193
Section 78	28th June 2016	S.S.I. 2016/193
Section 79	28th June 2016	S.S.I. 2016/193
Section 80	28th June 2016	S.S.I. 2016/193
Section 81	28th June 2016	S.S.I. 2016/193
Section 82	28th June 2016	S.S.I. 2016/193
Section 85(1) and (3) (partially)	23rd December 2016	S.S.I. 2016/365
Section 89 (partially)	23rd December 2016	S.S.I. 2016/365
Section 92 (partially)	23rd December 2016	S.S.I. 2016/365
Section 98 (partially)	23rd December 2016	S.S.I. 2016/365
Section 100 (partially)	23rd December 2016	S.S.I. 2016/365
Section 101 (partially)	23rd December 2016	S.S.I. 2016/365
Section 102 (partially)	23rd December 2016	S.S.I. 2016/365
Section 103	23rd December 2016	S.S.I. 2016/365
Section 104	23rd December 2016	S.S.I. 2016/365
Section 107	23rd December 2016	S.S.I. 2016/365
Section 108(2) and (3)(a)(ii) and (b)	23rd December 2016	S.S.I. 2016/365
Section 109	23rd December 2016	S.S.I. 2016/365
Section 110 (partially)	23rd December 2016	S.S.I. 2016/365
Section 111(2) and (4) (partially)	23rd December 2016	S.S.I. 2016/365
Section 119	23rd December 2016	S.S.I. 2016/365
Section 120	23rd December 2016	S.S.I. 2016/365
Section 121	23rd December 2016	S.S.I. 2016/365
Section 122	23rd December 2016	S.S.I. 2016/365

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<i>Provisions of the 2016 Act</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 123	23rd December 2016	S.S.I. 2016/365
Section 124	23rd December 2016	S.S.I. 2016/365
Section 129(2) and schedule 2 so far as they relate to paragraph 7(1) of schedule 2 (partially)	23rd December 2016	S.S.I. 2016/365
Section 129(2) and schedule 2 so far as they relate to paragraphs 7(16)(b) and 14 to 19 of schedule 2	23rd December 2016	S.S.I. 2016/365
Section 129(2) and schedule 2 so far as they relate to paragraph 7(29) and (30)(b) of schedule 2 (partially)	23rd December 2016	S.S.I. 2016/365