

## **POLICY NOTE**

### **THE LAND REFORM (SCOTLAND) ACT 2016 (CONSEQUENTIAL AND SAVING PROVISIONS) REGULATIONS 2016**

#### **SSI 2016/366**

1. The above instrument is made by Scottish Ministers in exercise of the powers conferred by section 127(1) of the Land Reform (Scotland) Act 2016 (“the 2016 Act”). It is subject to the negative procedure in the Scottish Parliament.

#### **Background**

2. The 2016 Act received Royal Assent on 22nd April 2016. A number of provisions of Part 10 of the 2016 Act concerning agricultural tenancies are brought into force by SSI 2016/365. These Regulations make consequential modification which is necessary following commencement of section 109 of the 2016 Act by SSI 2016/365. These Regulations also contain saving provision related to that consequential modification.

#### **Policy Objective**

3. The overall policy objective of Part 10 of the 2016 Act is to modernise agricultural holdings legislation.

4. Regulation 2(1) modifies the Organic Aid (Scotland) Regulations 1994 (S.I. 1994/1701) to substitute the existing wording of regulation 9(7)(b) of that instrument to reflect the modifications made to the Agricultural Holdings (Scotland) Act 1991 by section 109 of the 2016 Act. Section 109 of the 2016 Act comes into force on 23rd December 2016.

5. Regulation 3(1)(a) and (b) of these Regulations makes saving provision so that the modification made by regulation 2 of these Regulations does not apply in respect of a bequest of an agricultural holding, of a Short Limited Duration Tenancy or of a Limited Duration Tenancy where the will or other testamentary writing containing the bequest was made before 23rd December 2016.

6. Regulation 3(1)(c) and (2) of these Regulations makes saving provision so that the modification made by regulation 2 of these Regulations does not apply to an agricultural holding, a Short Limited Duration Tenancy, or a Limited Duration Tenancy where the deceased died before 23rd December 2016 and at the time of death had not made a will or other testamentary writing which bequeathed the lease.

#### **Consultation**

7. No formal consultation was required to be carried out in relation to these Regulations. However, a formal consultation exercise was carried out in May 2015 as part of the drafting of the Land Reform (Scotland) Bill. Informal consultation with stakeholders will continue to take place during the implementation process. The link below shows the relevant consultation documentation: <http://www.gov.scot/Resource/0047/00477022.pdf>

## **Impact Assessment and Financial Effects**

8. Both an Equality Impact Assessment and a Business and Regulatory Impact Assessment were carried out in relation to the 2016 Act. The Financial memorandum which was prepared for the 2016 Act considered the financial impact and remains valid. The links below show the relevant documentation.

Link to the Equality Impact Assessment: <http://www.gov.scot/Resource/0048/00480754.pdf>

Link to the Business and Regulatory Impact Assessment:  
<http://www.gov.scot/Resource/0048/00481018.pdf>

Link to the Financial Memorandum:  
[http://www.parliament.scot/S4\\_Bills/Land%20Reform%20\(Scotland\)%20Bill/SPBill176AFM/S042016.pdf](http://www.parliament.scot/S4_Bills/Land%20Reform%20(Scotland)%20Bill/SPBill176AFM/S042016.pdf)

Scottish Government  
Agricultural Holdings  
Agriculture, and Rural Development  
November 2016