

POLICY NOTE

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

SSI 2016/389

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.

Policy Objectives

The Land Reform (Scotland) Act 2016 (Consequential and Saving Provisions) Amendment Regulations 2016 (“the Regulations”) makes a minor amendment to the Land Reform (Scotland) Act 2016 (Consequential and Saving Provisions) Regulations 2016 (“the 2016 Regulations”), which were laid before the Parliament on 11th November 2016.

During Parliamentary scrutiny of the 2016 Regulations, the Delegated Powers and Law Reform Committee asked a question of the Scottish Government regarding the drafting of regulation 3(2)(c)(i) and (ii) of the 2016 Regulations. That regulation makes reference to ‘a’ lease of an agricultural holding (i.e. a secure tenancy under the Agricultural Holdings (Scotland) Act 1991) and to ‘a’ relevant lease (i.e. a Short Limited Duration Tenancy or a Limited Duration Tenancy). The Committee asked if this could cause confusion if a deceased tenant farmer has two or more tenancies and has made provision for some but not all in their will or other testamentary writing. In response the Scottish Government gave an undertaking to amend the 2016 Regulations. This instrument makes that amendment.

The Regulations substitute a new regulation 3 for regulation 3 of the 2016 Regulations. This is to clarify the application of the saving provision contained in that regulation in circumstances where the estate of a deceased person contained more than one lease of an agricultural holding or relevant tenancy.

Consultation

No formal consultation was required to be carried out in relation to these Regulations. However, a formal consultation exercise was carried out between December 2014 and February 2015, with an analysis of responses published 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

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