



Land Reform (Scotland) Act 2016

2016 asp 18

PART 3

INFORMATION ABOUT CONTROL OF LAND ETC.

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

- I1** S. 40 in force at 17.5.2018 for specified purposes by [S.S.I. 2018/138, art. 2, sch. 1](#)
- I2** 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)),

Changes to legislation: Land Reform (Scotland) Act 2016, Cross Heading: Procedure for first regulations under section 39 is up to date with all changes known to be in force on or before 25 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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

I3 [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
 - (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

I4 [S. 42](#) in force at 17.5.2018 for specified purposes by [S.S.I. 2018/138, art. 2, sch. 1](#)

I5 [S. 42](#) in force at 10.1.2020 in so far as not already in force by [S.S.I. 2019/420, reg. 2\(b\)](#)

Changes to legislation:

Land Reform (Scotland) Act 2016, Cross Heading: Procedure for first regulations under section 39 is up to date with all changes known to be in force on or before 25 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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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](#)