

# **Delivering Improved Transparency of Land Ownership in Scotland: Consultation on Draft Regulations**

**A consultation on the proposed draft Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) (Scotland) Regulations**

June 2018

## MINISTERIAL FOREWORD

Improving transparency of land ownership in Scotland is at the very heart of progressing land reform in Scotland. The proposals that we are consulting on will help people and communities to know more about, and engage with, the individuals who control the decision making of land owners and tenants of land in Scotland.

The proposals are the result of a Government amendment at Stage 3 of the passage of what is now the Land Reform (Scotland) Act 2016. The amendment was unanimously supported, a recognition of the importance of transparency in empowering people and communities to influence how Scotland's land is owned and managed.

The passage of the Land Reform (Scotland) Act 2016 was a substantial step for land reform in Scotland, and we have made good progress in implementing its provisions.

The Scottish Land Commission became operational in April 2017. I published the Scottish Land Rights and Responsibilities Statement in September 2017, followed by the Guidance in Engaging Communities in Decisions relating to Land in April this year.

A new Right to Buy to Further Sustainable Development is being developed, to follow the new Right to Buy Abandoned, Neglected and Detrimental Land which came into force in June 2018. These will both deliver more land to Scotland's communities.

Land is one of Scotland's most fundamental and prized assets, and it is only right that everyone benefits from it. These measures, and the proposals we are now consulting on, are helping towards that goal.

We have worked extensively with stakeholders across Scotland to produce the draft regulations and draft explanatory document setting out our proposals for a Register of Persons Holding a Control Interest in Land. They mark a significant step on the way to delivering greater transparency of land ownership in Scotland. Our proposals, together with information already publicly available, will ensure that there can no longer be categories of land owner or tenant where control of decision-making is obscured.

After this consultation has concluded we will take into account what people have said as we consider our proposals again. We will then lay in the Scottish Parliament a further draft of the regulations and an updated version of the explanatory document that explains any changes made. Only after that process is concluded will we lay the regulations in draft as we would with any other affirmative secondary legislation.

Throughout this process we will take a truly collaborative approach to legislation which can benefit all of us in Scotland, and I urge all who have views, experiences and ideas to contribute to engage with us.



A handwritten signature in black ink that reads "R. Cunningham".

**Roseanna Cunningham**  
Cabinet Secretary for Environment, Climate Change and Land Reform

## INTRODUCTION

### Purpose

1. The purpose of this consultation is to gather views on the proposed draft Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) (Scotland) Regulations.
2. We have published these proposed draft regulations to establish a new Register of Persons Holding a Controlled Interest in Land as required by Part 3 of the Land Reform (Scotland) Act 2016. A draft explanatory document has been published to accompany the proposed draft regulations. It sets out in detail the meaning of the proposed draft regulations and the policy intention behind them.
3. The overarching purpose of our proposals is to increase public transparency in relation to individuals who have control over decision-making in relation to land. They are intended to ensure there can no longer be categories of land owner or tenant where, intentionally or otherwise, control of decision-making is obscured.
4. This will help enable communities and individuals to identify who they should engage with over decisions about land where that person cannot be identified already. It will also aid policy making by enabling a fuller picture of those individuals who have control over decisions about land in Scotland.
5. Our proposals for a Register of Persons Holding a Controlled Interest in Land will require categories of entities who may own land in Scotland and where the controlling interests in the entities is not currently transparent, to make details of their controlling interests publicly available.

### Consultation

6. This consultation will run until 8 November 2018. The 2016 Act requires that we consult on the proposed draft regulations for a period of 60 days, not including periods of parliamentary recess. This consultation document seeks views on the proposals in the draft regulations and on the proposed implementation of the new Register.
7. This consultation makes extensive cross-reference to the proposed explanatory document which should be used as the main source of explanation for our proposals. Although we have summarised key aspects of our proposals below, the proposed explanatory document contains full details of our proposals and we would recommend that respondents consult this document to inform their responses. For each question in this consultation we have indicated where the relevant material is to be found in the proposed explanatory document.
8. We have structured this consultation around three overarching questions that we would welcome views on:
  - *Is the proposed Register going to deliver the desired outcome? We set out in the draft regulations how the Register will function including who will*

provide information, how it will be displayed, and how the duties associated with the Register will be enforced. Part 1 of this consultation seeks views on the proposals we have set out in the draft regulations.

- *Are we proposing to register the right people?* In the draft regulations we propose particular approaches to each category of land owner or tenant that our regulations will apply to. We would particularly appreciate views on whether these proposals have correctly identified the persons who can control decision making in relation to land in Scotland – both in common and unusual land ownership structures. There are also categories of land owner or tenant that we consider to already be transparent based on their reporting requirements elsewhere and we are proposing not to duplicate this by requiring them to report in the Register.
- *How can we ensure that the Register is easy to use and that information about the control of land in Scotland is accessible?* Part 3 of this consultation seeks views on how the Register can best be made accessible. We are aware that under our proposals the Register, once operational, will be among a number of sources of information about control of land in Scotland. We are keen that the new Register makes it easier, and not more complex, to gather information. We recognise that there can be challenges inherent in using existing sources of information. We would welcome views on how the user experience of the Register can best be realised. We would also welcome stakeholder views and experiences of using existing registers and any issues that currently make this challenging.

9. As well as this consultation document we will be engaging with key stakeholders during and after the consultation period. As set out in the 2016 Act we will subsequently lay another draft of the regulations and the explanatory document. The explanatory document must be revised to give details of consultation activities undertaken, the views received as a result of the consultation, and the changes (if any) made to the proposed draft regulations as a result of those representations.

## **UK Government Proposals**

10. The UK Government has committed to establish an operational Register of Overseas Entities' Beneficial Owners by 2021. They have committed to publish their proposals in a draft bill before the 2018 summer recess. Their proposed register will apply to overseas companies that own land anywhere in the UK or who bid for central government procurement contracts.
11. It remains our intention that our respective proposals are complementary and that we do not duplicate information where there is already transparency. We will therefore consider the UK Government's proposals and, if we consider them suitable for our purposes, our final regulations may take account of them.
12. We will monitor the further development of the UK Government's proposals and will continue to engage with the UK Government on this matter as necessary.

## Summary of the proposals in the draft Regulations

13. The draft Regulations require that a new Register be created – the Register of Persons Holding a Controlled Interest in Land. This is referred to throughout as ‘the Register’ (although in the Regulations themselves, it is referred to as the “RCI”).
14. The Register will contain information about the persons who can influence or control owners and tenants of land. As such, there will be an entry for each controlled person detailing who is in a position to influence or control them.
15. Duties will be placed on owners and tenants of land, and persons who can influence or control them, to provide information for inclusion in the Register. This information will enable members of the public to engage with the respective parties. It will be a criminal offence not to comply with the duties, punishable by a fine.
16. The Register will be created and held by the Keeper of the Registers of Scotland who will be under duties to enter the relevant information onto the Register, and to act on any notices provided to her if there are changes in the relevant information.
17. The Keeper will have the power to amend the Register should the information in it be inaccurate, and questions about the accuracy of information in the Register can be referred to the Lands Tribunal.
18. Individuals whose information is to be included in the Register as a person with influence or control over another may make a “security declaration”. This would be made on the basis that inclusion in the Register of one or more of the individual’s required details would put them, or another person connected to them, at risk of violence, abuse, threat of violence or abuse, or intimidation. While a security declaration is in force no information about that individual will be disclosed in the Register.
19. The draft Regulations apply to owners of land and tenants of registrable leases (that is, leases of over 20 years). The draft Regulations primarily seek to address two particular scenarios in which there is currently a lack of transparency as to the control or influence of the decision-making of an owner or tenant of land. Firstly, where the legal owner or tenant of the land is an opaque legal entity, such as an overseas company, or secondly, where they hold the title or lease in an arrangement which is not necessarily discernible from the Land Register itself, such as a trust arrangement.
20. Accordingly, the draft Regulations will result in the disclosure of information about persons who have influence or control over the person listed as the owner or tenant of the land by means of the existence of one of the following types of association:
  - a contractual or other arrangement with a person to give that person influence or control over significant decisions in relation to the land,

- a partnership, including any Scottish partnership where at least one partner is an individual,
- a trust,
- an unincorporated association, and
- an overseas legal entity.

21. Where information similar to that which is required for the Register is already reported and publicly available, the information is not duplicated in the Register. This prevents the same information being gathered, recorded and held in different places, and minimises the administrative burden on public services and those who are already under requirements to report this information elsewhere. Categories of entities who are an owner or a tenant of land and who meet this condition are therefore not required to provide more than basic information for inclusion in also report to the new Register as an owner or tenant of land. They may, however, still be recorded as an associate of another owner or tenant of land.

## **Chapter 1 – The functioning of the Register**

22. Parts 1-5 of the draft regulations set out the functioning of the Register, the duties on persons to provide information for entry onto the Register, the role of the Keeper as registrar, how information in the Register will be maintained and corrected, and the non-disclosure of information in the Register in exceptional circumstances.
23. Our proposals are set out in detail at Chapter 1 of the draft explanatory document.

### Part 1 and Part 2 – The form of the Register

24. In summary, we have proposed that an entry in the Register will relate to a piece of land owned (i.e. where title to land is held) or a lease which can be recorded in the Land Register (i.e. a lease of 20 years or more). An entry will contain information about the land by which it can be searched, such as a Land Register title number.
25. Each entry will contain information about the owner or tenant of the land (referred to as the 'recorded person') and the persons associated with the 'recorded person'. 'Associate' is the term used in the regulations for the persons who hold a controlling interest in relation to a recorded person.
26. We have proposed that an entry in the Register will contain:
  - The name and address of a recorded person;
  - The title number of the land or, where the land is not in the Land Register, a description of the land sufficient to allow it to be identified;
  - Details of the capacity in which the recorded person owns or leases the land;
  - The required details in relation to each associate or, where a security declaration has been made, a statement of that instead; and,
  - The date of any notice given to the Keeper in respect of the entry.

### **Q 1. Do you have any comments on our proposals for the form of the Register?**

27. Regulation 4 requires the Keeper to amend the Register in certain circumstances such as being notified by a recorded person that they no longer have any associates. It is also proposed that the Keeper must amend entries in the Register if she otherwise becomes aware of an inaccuracy.
28. Regulation 4 does not prescribe how the Keeper may become aware of an inaccuracy but this could be as a result of being notified of an inaccuracy by a third party. She may correspond with persons to help her reach a conclusion. It is not, however, envisaged that the Keeper would investigate suggestions that there was or might be an inaccuracy in the register if the information provided to her did not disclose one. Regulation 4 also does not give the Keeper power or place a duty on her to amend the Register to create a new entry.

29. Where the Keeper is unable to reach a conclusion on the basis of the evidence presented to her, or where a question relates to whether an entry in the Register should be created, she or a third party can refer a question about the accuracy of, or lack of entry in, the Register to the Lands Tribunal. The process for referring a question to the Lands Tribunal is set out elsewhere in the draft regulations.

**Q 2. Do you have any comments on our proposals for the role of the Keeper in relation to information in the Register?**

Part 3 – Duties to provide information

30. This Part of the draft regulations sets out the duties that persons will be under to provide information as a result of the draft regulations including the timescales within which information must be provided, and the information that they must provide for inclusion in the Register.

**Q 3. Do you consider the information that we are requiring to be provided for inclusion in the Register sufficient and proportionate?**

**Q 4. Are our proposals for the duties people will be under to provide information sufficient and proportionate?**

31. Part 3 of the draft regulations also sets out our proposals for the process for making security declarations and what evidence may accompany them. It further sets out the processes by which security declarations may be revoked and appeals made against decisions about security declarations.
32. The right to make a security declaration contained in these regulations is intended to ensure that no-one is put at risk of violence, abuse, threat of violence or abuse or intimidation through the inclusion of information in the Register. For example, victims of domestic abuse may wish to use this mechanism to prevent their information being disclosed in the Register. This mechanism is also intended to be suitable for use by persons who are at risk in relation to a position they hold which is relevant to the Register. This may be a refuge worker who would otherwise be registered as an associate as result of their position within the unincorporated association which runs the refuge.

**Q 5. Is our proposed process for security declarations reasonable?**

**Q 6. Are there people who you think should be able to apply for their information not to be disclosed in the Register, who may not be able to under our current proposals?**

Part 4 – Miscellaneous

33. This Part of the draft regulations covers the process by which questions about the accuracy of the Register can be referred to the Lands Tribunal. It also covers the criminal offences which will back up the duties proposed in the draft regulations.



**Q 7. Do you have any comments on our proposals for referral of questions about the accuracy of the Register to the Lands Tribunal?**

34. Our proposals for the application of criminal offences are set out in the explanatory document. The draft regulations set out that knowingly or recklessly failing to comply with the information duties associated with the Register is a criminal offence. This is intended to deter and counter persons who are deliberately evading disclosure of certain information in the Register. It is not intended to criminalise persons who have made genuine errors.
35. Section 39(4)(b) of the Land Reform (Scotland) Act 2016 provides that for any criminal offences proposed in the draft regulations, the maximum penalty for those offences must be a fine, which must not exceed level 5 on the standard scale (£5,000). This is proposed to be the maximum penalty in the draft regulations.
36. The Regulations do not propose civil penalties or making compliance with the Regulations a pre-condition of land registration. A civil penalty was considered but, as this would also be limited to a fine not exceeding £5,000, it was concluded that this may not be a sufficient deterrent whilst requiring similar enforcement resource as criminal penalties.
37. It was also considered whether compliance should be made a pre-condition of land registration. However, there are concerns that this may be a disproportionate requirement that would be difficult to administer, particularly in the different treatment of those owners or tenants who already have land registered. In particular, it may not be a compatible approach with the requirement for updates to the Register to be event-driven. Keeping the information in the Register current was considered to be essential to meeting the policy goal and this favours an approach backed up by offences.

**Q 8. Do you have any comments on our proposals for criminal offences?**

**Q 9. Are there alternative or additional means of enforcement that we should be considering?**

38. Part 4 of the draft regulations also sets out the provisions for the notification of the Keeper on event of death, winding up or dissolution and for specified forms.

**Q 10. Do you have any comments on our proposed process for notification of the Keeper in the case of a person's death or an entity's winding up or dissolution?**

Part 5 - Application and transitional provisions

39. We have proposed that there will be a six month transitional period when owners and tenants in land, and their associates, will be required to provide the required information to the Keeper as set out in the regulations. The offences for failure to comply with those duties, however, will first come into force at the end of that transitional period.

40. As this is a new register, this transitional period is to allow for any technical challenges that may arise. It may also address any issues that persons encounter in gathering the information required for the Register, and providing it to the Keeper. It is expected that owners and tenants of land, and their associates, will fulfil their duties under the regulations from 1 April 2021 and may be subject to criminal offences if they have not done so by 1 October 2021.

**Q 11. Do you have any comments on our proposals for a transitional implementation?**

## **Chapter 2 – Who we will be registering**

41. Schedules 1 and 2 of the draft regulations set out the persons to be registered as ‘associates’ in the Register. Schedule 1 defines ‘associate’ for each category of person or entity to which the draft regulations apply. Schedule 2 sets out the entities that are out of scope and to which the draft regulations do not apply. Our proposals are set out in more detail at Chapter 2 of the draft explanatory document.
42. These draft regulations are intended to ensure there can no longer be categories of land owner or tenant where, intentionally or otherwise, control of decision-making is obscured.
43. The proposed draft regulations take account of existing legislation that can deliver transparency of land ownership, including land registration in Scotland, and corporate transparency including the UK People with Significant Control Register.

### **Part 1 of Schedule 1 - Contractual or other arrangements with an individual**

44. This Part of the draft regulations concerns persons with contractual or other arrangements with an individual such as individuals who own land as a result of a contractual arrangement in which they own it on behalf of another person. This situation differs from the ownership of land as a trustee of a trust and is understood to be less common.
45. Our proposals are set out in detail at paragraphs 106-110 of the draft explanatory document.

**Q 12. Can you provide examples where land is owned or leased by individuals subject to contractual arrangements such as those described in the explanatory document?**

**Q 13. Are there other contractual arrangements we should be looking to capture?**

46. We have proposed that persons who have the right to exercise, or actually exercise, significant influence or control over the owner or tenant’s dealings with the land be registered as associates.

**Q 14. Do you have any comments on this proposal?**

### **Part 2 of Schedule 1 - Partnerships**

47. Scottish partnerships where all the partners are companies limited by guarantee, Scottish Limited Partnerships and Limited Liability Partnerships are all required to report information to the People with Significant Control Register. There are, however, no equivalent reporting requirements on Scottish partnerships where at least one partner is an individual or on general

partnerships governed by English law. This Part of the draft regulations concerns land held by, or on behalf of, those partnerships.

48. Our proposals are set out in detail at paragraphs 111-124 of the draft explanatory document.
49. Partnerships under English law do not have legal personality and therefore cannot be the legal owner of land or holder of a lease on their own behalf. While Scottish partnerships do have legal capacity and can own or tenant land directly it is, however, understood that they frequently do not do so. In both cases, one or more of the partners will typically hold the land in 'trust' for the partnership. This arrangement may not be clear from an entry in the Land Register.

**Q 15. Does this reflect how land is typically owned or leased by or on behalf of partnerships or Can you provide examples of other ways in which land is owned or leased by or on behalf of partnerships?**

50. We have proposed that the following persons be registered as associates in relation to partnerships - a person who:
  - (i) is a general partner of the recorded person, but is not registered as owning or leasing the land;
  - (ii) is a general partner of another partnership which is (of itself) a partner of the recorded person;
  - (iii) is an individual who has significant influence or control over a relevant entity which is a partner of the recorded person; or
  - (iv) is an individual who has the right to exercise, or who actually exercises, significant influence or control over the recorded person or a partnership in which the recorded person is a partner.
51. We have set out that examples of significant influence or control will include persons who:
  - (i) have the right to unilaterally take or veto decisions about the governance or running of the partnership;
  - (ii) have the right to appoint or remove any of the partners of the partnership; or
  - (iii) are able to influence the decision-making of the partnership without holding a formal governance position within the partnership.

**Q 16. Do our proposals reflect sufficiently how control is exercised over partnerships?**

Part 3 of Schedule 1 - Trusts

52. This Part of the draft regulations concerns land held by a person as a trustee of, or otherwise on behalf of, a trust. Our proposals are set out in detail at paragraphs 125-142 of the draft explanatory document.
53. The explanatory document sets out our understanding of how land is typically held in trust under Scots law and the laws of other jurisdictions, and how such

land is registered in Scotland. Our proposals are intended to be applicable to trusts constituted under Scots law, English law and the law of other jurisdictions. They are also intended to apply equally to public, private and charitable trusts.

**Q 17. Do our proposals reflect how land is typically held in trust ?Can you provide examples of other ways in which land held in trust?**

54. We have proposed that the following persons be registered as associates in relation to trusts - a person who:
- (i) is a trustee of the trust, but is not registered as being the owner or tenant of the land;
  - (ii) is an individual who has significant influence or control over a relevant entity which is a trustee of the recorded person; or
  - (iii) is an individual who has the right to exercise, or who actually exercises, significant influence or control over the recorded person or the trust.
55. We have set out that examples of significant influence or control may include:
- (i) persons who have the right to appoint or remove a trustee (other than by application to the court). This power may typically be provided for in the trust agreements of commercial trusts;
  - (ii) persons who have the right to direct the distribution of assets or funds, or to direct investment decisions of the trust. This may also be provided for in a trust agreement;
  - (iii) persons who have the right to amend the trust deed. We are not aware that this is a common formulation of trust deeds made under Scots law. It may, however, be used in trust deeds made in another jurisdiction to reserve a role for the truster in the running of the trust;
  - (iv) persons who have the right to revoke the trust. This may include of-age sole beneficiaries of a bare trust who can unilaterally revoke the trust; and
  - (v) persons who can influence the decision-making of the trust without holding a formal governance position within the trust.

**Q 18. Do our proposals sufficiently capture how control is exercised over trusts including through financial interests?**

Part 4 of Schedule 1 – Unincorporated Associations

56. This Part of the draft regulations concerns land held on behalf of the members of an unincorporated association. Our proposals are set out in detail at paragraphs 143-154 of the draft explanatory document.
57. Unincorporated associations do not have legal personality and therefore cannot own land in their own right. Typically, a trustee or trustees will hold the title to land on behalf of an unincorporated association – these are known as the property trustees. That they own the land on behalf of the unincorporated association may not, however, be clear from a Land Register entry.

58. Unincorporated associations are typically small bodies that may be charitable or voluntary in nature. Common examples include village hall associations, sports clubs and faith and belief groups.

**Q 19. Do our proposals reflect how land is owned or leased on behalf of unincorporated associations? Can you provide examples of other ways in which land is owned or leased on their behalf?**

**Q. 20. Are there other types of groups than those mentioned who may be affected by these proposals? If so, please can you provide examples.**

59. We have set out that an associate in respect of the owner or tenant in this situation would be a person who:
- Is responsible for the general control and management of the administration of the body and is not recorded as the legal owner of the land.
60. In practice this will mean that the office holders within the management committee of the association, such as the chair or treasurer, be recorded as associates.

**Q 21. Do our proposals sufficiently capture how control is exercised over unincorporated associations?**

#### Part 5 of Schedule 1 – Overseas Legal Entities

61. This Part of the draft regulations concerns land owned or leased by overseas legal entities. Our proposals are set out at paragraphs 155-166 of the draft explanatory document.
62. Overseas companies which own land in Scotland will be recorded as the legal owner of the land or tenant of a lease and their name and registered address will be recorded in the Land Register. Where they are not subject to reporting requirements elsewhere the entity may be opaque with no opportunity to identify persons involved in its governance or decision making.

**Q 22. Do our proposals reflect how land is typically owned or leased by overseas legal entities Can you provide other ways in which land is owned or leased by overseas legal entities?**

63. We have set out that an associate in respect of an overseas legal entity be a person who:
- (i) directly or indirectly holds more than 25% of the voting rights in the recorded person;
  - (ii) directly or indirectly holds the power to appoint or remove a majority of the board of directors of the recorded person (or if it doesn't have a board, the equivalent management body);
  - (iii) has the right to exercise, or actually exercises, significant influence or control over a partnership or unincorporated body which is not a legal

- entity or a trust, but in respect of which paragraphs (i) or (ii) would apply if the partnership, body or trust were an individual; or
- (iv) otherwise has the right to exercise, or actually exercises, significant influence or control over the decision-making of the recorded person, particularly in respect of its dealings with the land. This is defined in more detail below.

64. We have also set out that examples of significant influence or control may include:
- (a) a person has absolute decision rights or absolute veto rights over decisions related to the running of the business of the company;
  - (b) a person's recommendations are always or almost always followed by shareholders who hold the majority of the voting rights in the company; or
  - (c) a person is significantly involved in the management and direction of the company.
65. Paragraph 163 of the explanatory document in particular sets out how our proposals will apply to 'chains' of ownership in overseas legal entities.

**Q 23. Do our proposals sufficiently capture how control is exercised over overseas legal entities? Are there other examples that you are aware of where control is exercised over an overseas legal entity?**

**Q 24. are there examples where transparency is lacking as to control over a legal owner or tenant of land that we have not taken account of in our proposals?**

#### Schedule 2

66. Schedule 2 of the draft regulations proposes that categories of entities subject to other transparency regimes do not have to double report similar information in the new Register of Persons Holding a Controlled Interest in Land. This will apply where they are the owner or tenant of land. Entities listed in Schedule 2 may still be recorded as associates in respect of a legal owner or tenant of land.
67. In particular, the PSC register covers:
- UK companies;
  - Limited Liability Partnerships;
  - Scottish Limited Partnerships;
  - Societas Europaeae; and,
  - Scottish general partnerships where all the general partners are corporate entities.
68. Each is required to register information about their people with significant control (PSC). The definition of a PSC is included in the explanatory document.
69. Our proposals are explained in detail at paragraphs 167-180 of the explanatory document.

**Q 25. Do you have any comments on the usefulness of the PSC regime in revealing control of corporate entities which own land in Scotland?**

70. The draft regulations also propose that Scottish charitable incorporated organisations (SCIOs) and charitable incorporated organisations (CIOs) not be subject to the regulations. CIOs are the equivalent of SCIOs in England and Wales.
71. Any person can request that a SCIO provide them with the names and addresses of its trustees. On the basis that information about the control of the SCIO is already publicly available, the draft regulations do not propose that SCIOs report in the Register. CIOs follow similar structures and accordingly are also not required to report to the new Register.
72. Mutuels, including cooperatives and community benefit societies, are already required to report information to the Financial Conduct Authority for publication in their Register of Mutuels. Accordingly it is proposed that they are also not to be required to report information for inclusion in the new Register.
73. It is also proposed that public authorities to which the Freedom of Information (Scotland) Act 2002 or the Freedom of Information Act 2000 apply will not be required to report. These Acts apply widely to public sector bodies including Ministers, non-departmental public bodies, local authorities and health boards etc. In each of these cases, it is considered that the control of the organisation will already be transparent through legislation.

**Q 26. Do you have any comments on our proposals to not require SCIOs, CIOs, mutuels or public authorities to provide information for inclusion in the Register?**

74. Chapter 3 of the explanatory document summarises the impact assessments that we have conducted so far. A partial Business and Regulatory Impact Assessment and a draft Privacy Impact Assessment have been published as part of the draft explanatory document. We have considered whether a Strategic Environmental Assessment, Equalities Impact Assessment or Children's Rights and Wellbeing Assessment were required and concluded that they were not required at this stage. These considerations are set out in the draft explanatory document.

**Q 27. Do you agree with the conclusions in the impact assessments?**

**Q 28. Are there potential impacts that we have not considered?**



### Chapter 3 – The User Experience

75. The creation of a new Register of Persons Holding a Controlled Interest in Land is intended to benefit individuals and communities across Scotland. It is therefore essential that the Register be accessible and usable by those individuals and communities. We will work with Registers of Scotland in advance of the Register's creation to ensure that the Register is user friendly in its format and systems – both to enter information onto the Register and to access it. This will include execution of a 'discovery' process used in the development of new Registers which involves extensive user testing.
76. Additionally we will learn from the experience of Companies House in administering the People with Significant Control Register which reveals information about the persons who control UK companies and other corporate bodies.
77. A key element of our proposals is it will be free to search and to access information in the new Register. Users will not be charged for either function. This will deliver an easily accessible and open register for the people of Scotland.
78. In October 2017 Registers of Scotland launched ScotLIS – a new map-based, on-line land information service.
79. The public offer for ScotLIS can tell users:
  - When a property was purchased;
  - How much it was purchased for;
  - Whether a property is registered in the Land Register and, if so, its title number; and,
  - The mapped extent of the property on an Ordnance Survey map.
80. In addition to the public offer, there is a paid-for service aimed at business users such as legal and conveyancing specialists.
81. ScotLIS continues to be refined and improved based on RoS' customer research. In the public space the availability of an interactive map and how this might be used by members of the public is one such topic of research.
82. Where research identifies a need to do so, the addition of extra datasets will also be considered so that ScotLIS will allow for easy access to a wide variety of data held by public sector partners.
83. Part of the 'discovery' activity for the new Register of Persons Holding a Controlled Interest in Land will include how this information can be accessed. We will use outputs from research to validate our assumption that this should be available via ScotLIS and to further determine how to display this information meaningfully to both public and business users.
84. The Land Register will remain the chief source of information about the legal owner of a piece of a land. Entries in the Register of Persons Holding a

Controlled Interest in Land can be read alongside entries in the Land Register to complete information about the ownership of the land.

85. As we have set out above, we are proposing that for some categories of owner there will not be information recorded in the Register, such as UK companies. In that case, an individual who wished to identify information about land owned by a UK company would first consult the Land Register to identify the UK company as the legal owner of the land before searching for the UK company on the Companies House website, where information about the company's people with significant control will be stored.
86. We recognise that this will require users to consult different sources of information, and are committed to making this as easy as possible. To that end we have made some initial proposals below. We are keen, however, to take views on this issue and draw on usable experience elsewhere, wherever that would be helpful.
87. Measures that may particularly help would be:
  - Publishing information about the available sources of information, either on the Registers of Scotland website or elsewhere; and
  - Publishing guidance about how to access information about land ownership including control of land owners in Scotland.

**Q 29. What measures, if any, do you think we should take to inform and publicise information about land in Scotland?**

## **Responding to this Consultation**

We are inviting responses to this consultation by 8 November 2018.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/land-reform-and-tenancy-unit/transparency-in-land-ownership>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 8 November 2018.

If you are unable to respond using our consultation hub, please send the completed Respondent Information Form to:

Land Reform Policy and Legislation Team  
Scottish Government  
Area 3G South  
Victoria Quay  
Edinburgh  
EH6 6QQ

### **Handling your response**

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

### **Next steps in the process**

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

### **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at [LandReform@gov.scot](mailto:LandReform@gov.scot).

### **Scottish Government consultation process**

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



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