



# Contract (Third Party Rights) (Scotland) Act 2017

## 2017 asp 5

### **1 Creation of a third-party right**

- (1) A person who is not a party to a contract acquires a third-party right under it where—
  - (a) the contract contains an undertaking that one or more of the contracting parties will do, or not do, something for the person's benefit, and
  - (b) at the relevant time it was the intention of the contracting parties that the person should be legally entitled to enforce or otherwise invoke the undertaking.
- (2) The third-party right is the right to enforce or otherwise invoke the undertaking.
- (3) The person who is to acquire a third-party right under a contract must be identifiable from the contract by being either named or described in it.
- (4) A third-party right may be acquired by a person despite the fact that at the relevant time the person—
  - (a) was not in existence, or
  - (b) did not fall within the description of persons (if any) whom the contracting parties intended should benefit from, and be legally entitled to enforce or otherwise invoke, the undertaking.
- (5) In subsections (1)(b) and (4), "the relevant time" means—
  - (a) the time when the contract was constituted, or
  - (b) if the undertaking was added to the contract by a modification of its terms, the time when the modification was made.