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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2021 No.**

**The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021**

**PART 4**

Miscellaneous

*Referrals*

**Referrals**

- 19.**—(1) A person may refer to the Lands Tribunal for Scotland a question relating to—
- (a) the accuracy of the RCI (including where there may be inaccuracies due to the omission of information which is required to be recorded by these Regulations), or
  - (b) what is needed to rectify an inaccuracy in the RCI.
- (2) The person making the referral must, at the same time as making it, give notice to—
- (a) in a case where the alleged inaccuracy relates to an entry in the RCI—
    - (i) the recorded person, and
    - (ii) each associate of the recorded person, so far as known to the person making the referral,
  - (b) in a case where the alleged inaccuracy relates to the omission of information—
    - (i) the recorded person or, as the case may be, the owner or tenant of the land,
    - (ii) each associate of the recorded person (if any), so far as known to the person making the referral,
    - (iii) any person who is alleged to be an associate of the recorded person or, as the case may be, the owner or tenant of the land, and
  - (c) in every case, the Keeper,
- except where that would involve the person giving notice to themselves.
- (3) The Lands Tribunal for Scotland must, on determining the question, give notice to—
- (a) the person who made the referral,
  - (b) the Keeper, and
  - (c) any other person appearing to the Lands Tribunal for Scotland to have an interest.
- (4) This regulation is without prejudice to any other right of recourse, whether under an enactment or under a rule of law.

## Offences

### Offence of giving false or misleading information

- 20.**—(1) A person commits an offence if the person—
- (a) makes a materially false or misleading statement—
    - (i) in any of the documents listed in paragraph (4),
    - (ii) in a response to a request to verify the accuracy of any information in such a document, or
    - (iii) in a response to a request made by the Keeper under regulation 23(2) or (5), and
  - (b) knows, or is reckless as to whether, the statement is false or misleading.
- (2) A person commits an offence if the person—
- (a) intentionally fails to disclose material information—
    - (i) required in any of the documents listed in paragraph (4), or
    - (ii) in a response to a request made by the Keeper under regulation 23(2) or (5), or
  - (b) is reckless as to whether all material information is so disclosed.
- (3) A person who commits an offence under paragraph (1) or (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) The documents are—
- (a) a notice to the Keeper under regulation 10 or 12,
  - (b) a notice to an associate under regulation 13,
  - (c) a notice to a recorded person under regulation 14,
  - (d) a security declaration,
  - (e) a notice revoking a security declaration,
  - (f) a response to a request of the Keeper under regulation 16(8),
  - (g) a notice to the Keeper under regulation 23(1) or (4).

### Defence to false or misleading information offences

- 21.**—(1) Regulation 20(1) or (2) does not apply if the person (the “accused”) took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (2) The defence described in paragraph (1) is established if the accused—
- (a) acted in reliance on information supplied by another person, and
  - (b) did not know and had no reason to suppose that—
    - (i) for an offence under regulation 20(1), the information was false or misleading, or
    - (ii) for an offence under regulation 20(2), all material information had not been disclosed.
- (3) Paragraph (2) does not limit paragraph (1).
- (4) An accused may not rely on paragraph (2)(a) unless—
- (a) the accused serves on the prosecutor a notice giving such information identifying or assisting in the identification of the person referred to in that paragraph as is in the accused’s possession,
  - (b) the notice is served—

- (i) where an intermediate diet is held, at or before that diet, or
- (ii) where no such diet is held, at least 10 days before the trial diet, and
- (c) the court grants leave to do so.
- (5) Paragraph (4) does not apply if—
  - (a) the accused lodges a defence statement under section 125 of the Criminal Justice and Licensing (Scotland) Act 2010(1) in accordance with the time limits mentioned in paragraph (4)(b), and
  - (b) the accused’s defence involves an allegation that the commission of the offence was due to reliance on information supplied by another person.

**Individual culpability where organisation commits offence**

- 22.—(1) This regulation applies if—
- (a) an offence under these Regulations is committed by an organisation of a type specified in column 1 of the table in paragraph (3), and
  - (b) the commission of the offence—
    - (i) involves consent or connivance on the part of an individual holding a position in the organisation that is specified in column 2 of that table for that type of organisation or purports to act in that capacity, or
    - (ii) is attributable to neglect on the part of such an individual.
- (2) The individual referred to in paragraph (b) (as well as the organisation) commits the offence and is liable to the same penalty as any other individual committing the offence.
- (3) The table is as follows—

<i>Organisation</i> <i>(Column 1)</i>	<i>Individual</i> <i>(Column 2)</i>
company as mentioned in section 1 of the Companies Act 2006	director, manager, secretary or other similar officer  member, where the company’s affairs are managed by its members
limited liability partnership	member
other partnership	partner
any other body or association	individual who is concerned in the management or control of its affairs.

*Other*

**Notification of Keeper on event of death, winding up or dissolution**

- 23.—(1) In the event of the death of an individual who is a recorded person, the executor of the individual must, as soon as reasonably practicable—
- (a) notify the Keeper of the individual’s death, and

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(1) 2010 asp 13.

- (b) provide the Keeper with the information mentioned in the second entry of column 3 of the table in regulation 12.
- (2) Where paragraph (1) applies, the executor must also provide such further information in relation to the individual or the land as the Keeper may reasonably request.
- (3) In the event of the death of an individual who is an associate, the executor of the individual must, as soon as reasonably practicable, notify the recorded person of the individual's death.
- (4) In the event of the winding-up or dissolution of a non-natural person ("the entity") who is a recorded person, the person responsible for dealing with the assets or liabilities of the entity must, as soon as reasonably practicable,
  - (a) notify the Keeper of the winding-up or dissolution, and
  - (b) provide the Keeper with the information mentioned in the second entry of column 3 of the table in regulation 12.
- (5) Where paragraph (4) applies, the person must also provide such further information in relation to the entity or the land as the Keeper may reasonably request.
- (6) In the event of the winding up or dissolution of a non-natural person ("the entity") who is an associate, the person responsible for dealing with the assets or liabilities of the entity must, as soon as reasonably practicable, notify the recorded person of the winding up or dissolution.

### **Specified forms**

- 24.**—(1) This regulation applies if these Regulations require or authorise something to be in the specified form.
- (2) To be in the "specified form", the thing must—
    - (a) be in a form specified by the Keeper for the purposes of the provision in which the expression occurs,
    - (b) be given in accordance with any requirements specified by the Keeper for the purpose.
  - (3) The Keeper may specify a form for the purposes of paragraph (2)(a).
  - (4) A form of notice specified by the Keeper under paragraph (3) may provide for—
    - (a) a single form to be used to give notice by more than one person, or
    - (b) a single form to be used by a person to give notice relating to more than one other person or event.
  - (5) The Keeper must publish each form specified under paragraph (3) in such manner as the Keeper considers appropriate.

### **Provision of information by the Keeper to Scottish Ministers**

- 25.** The Keeper must provide to the Scottish Ministers any information that Scottish Ministers may require for the purposes of monitoring the operation and effectiveness of the RCI.