
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2021 No.

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

PART 4

Miscellaneous

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.