



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

## 2017 asp 5

### **2 Creation: further provision**

- (1) This section makes provision elaborating on section 1.
- (2) The undertaking referred to in section 1(1)(a) may be one which depends on something happening or not happening (whether or not it is certain that that thing will or will not happen).
- (3) The intention of the contracting parties referred to in section 1(1)(b) may be express or implied.
- (4) A person may acquire a third-party right to enforce or otherwise invoke an undertaking despite the fact that—
  - (a) the undertaking may be cancelled or modified,
  - (b) there has been no delivery, intimation or communication of the undertaking to the person.
- (5) The reference in section 1(1)(a) to an undertaking to do something includes an undertaking to indemnify a person.
- (6) The reference in section 1(1)(a) to an undertaking not to do something includes an undertaking—
  - (a) not to hold a person liable in a matter,
  - (b) not to enforce, or not to enforce in full, a person's liability in a matter.
- (7) This Act is without prejudice to any other enactment, or rule of law, that imposes requirements which must be fulfilled if an enforceable obligation is to be created.