
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2021 No.

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

PART 3

Duties to provide information

Security declaration

Security declaration

16.—(1) An associate who is an individual may, at any time, make a declaration that the inclusion in the RCI of one or more of the associate’s required details would put the associate or an individual connected with the associate at risk of violence, abuse, threat of violence or abuse, or intimidation (a “security declaration”).

(2) A security declaration must—

- (a) be accompanied by suitable evidence to support the making of the declaration or state that the associate is taking reasonable steps to obtain such evidence,
- (b) include the required details of the associate,
- (c) state the date on which the security declaration is made,
- (d) be signed by the associate, and
- (e) be given to the Keeper.

(3) An associate must also send a copy of the security declaration to the recorded person.

(4) For the purpose of paragraph (2)(a), suitable evidence is—

- (a) evidence that meets the requirements for evidence in paragraph 1 or 2 of schedule 3, or
- (b) where such evidence is not reasonably obtainable, such other evidence as the Keeper considers appropriate in the circumstances.

(5) Where a declaration is not accompanied by evidence, the evidence must be produced within the period of 60 days beginning with the date on which the security declaration was made.

(6) If the associate does not produce the evidence, the security declaration ceases to have effect at the end of that period.

(7) The Keeper must decide, on the basis of the evidence produced, whether or not it was reasonable for the security declaration to have been made.

(8) For the purposes of making a decision under paragraph (7), the Keeper may request—

- (a) the associate, or
- (b) any other person who the Keeper considers may have information or documents relevant to the making of the decision,

to provide the Keeper, within such period as the Keeper may specify, with such further information or documents relevant to the making of the decision as the Keeper may specify.

(9) The Keeper must notify the associate, and any recorded person of the associate, of the Keeper's decision as soon as reasonably practicable after making the decision.

(10) A notification under paragraph (9) must—

- (a) set out the Keeper's decision,
- (b) include the reasons for the decision, and
- (c) if the decision is that it was not reasonable for the security declaration to have been made, include information about—
 - (i) the effect of paragraph (11),
 - (ii) the right of appeal under regulation 18.

(11) Where the Keeper decides that it was not reasonable for the security declaration to have been made, the declaration ceases to have effect—

- (a) at the end of the period of 30 days beginning with the date on which notification under paragraph (10) was given, or
- (b) if the associate appeals against the decision and the decision is upheld, at the end of the period of 30 days beginning on the date on which the appeal was finally determined.

(12) A security declaration has effect during the period—

- (a) beginning with the day on which the declaration is received by the Keeper, and
- (b) ending on the day on which the declaration—
 - (i) is revoked under regulation 17, or
 - (ii) ceases to have effect in accordance with paragraph (6) or (11).

Revocation of security declarations

17.—(1) An associate who has made a security declaration may revoke it at any time.

(2) An associate who has made a security declaration must revoke it as soon as reasonably practicable if—

- (a) the declaration made in accordance with regulation 16(1) is no longer valid, or
- (b) the associate is unable to obtain, or ceases to have, evidence of a kind referred to in regulation 16(2)(a) to support the grounds for making the declaration.

(3) A security declaration is revoked by giving notice to the Keeper in the specified form.

(4) The revocation has effect on the day on which the notice is received by the Keeper.

(5) A person commits an offence if the person, without reasonable excuse, fails to comply with paragraph (2).

(6) A person who commits an offence under paragraph (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Appeals against decisions about security declarations

18.—(1) An associate may appeal to the Lands Tribunal for Scotland, on a question of fact or on a point of law, against a decision made under regulation 16(7).

(2) The appeal must—

- (a) be lodged within the period of 30 days beginning on the date on which the notice under regulation 16(9) was received, and

- (b) state the grounds on which it is being made.
- (3) The associate must, within the period of 7 days beginning on the date on which the appeal is made, give the Keeper a copy of the grounds of appeal.
- (4) On receipt of the grounds of appeal, the Keeper must amend the RCI to enter a note of the appeal wherever the security declaration is recorded in the RCI.
- (5) The Keeper must remove the note when the appeal is finally determined.
- (6) The Keeper must give effect to the Lands Tribunal for Scotland's determination of an appeal under this regulation.