
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

Information to be provided by persons who own or tenant land subject to the control of another

Duty to notify of controlled interest and associates

- 10.**—(1) This regulation applies to a person who is a recorded person.
- (2) This regulation does not apply to any person of a type listed in schedule 2 (list of persons subject to other transparency regimes).
- (3) A person to whom this regulation applies must provide the Keeper with—
- (a) the person's name, address and, if applicable, registered number,
 - (b) in relation to the land—
 - (i) if the land is registered in the Land Register, the title number of the land,
 - (ii) if the land is not registered in the Land Register, a description of the land which is sufficient for it to be identified,
 - (c) details of the capacity in which the person owns or tenants the land (for example as an individual, partner or trustee), and
 - (d) in relation to each associate—
 - (i) the required details, and
 - (ii) if a security declaration has effect in respect of an associate, a copy of that declaration.
- (4) For the purposes of paragraph 3(d), where an associate has more than one association with a person to whom this regulation applies in relation to the land, a person to whom this regulation applies is only required to provide the Keeper with the information mentioned in paragraph 3(d) once.
- (5) Before providing any information under paragraph (3), the person must—
- (a) take reasonable steps to verify the accuracy of the associate's required details with the associate, and
 - (b) inform the associate about—
 - (i) the timescales for responding (see regulation 15(2)),
 - (ii) the offences in this regulation for failure to comply,
 - (iii) the right to make a security declaration, and

- (iv) the duty of an associate to notify the person about changes to the associate's required details.
- (6) Information provided under paragraph (3) must be in a notice in the specified form.
- (7) The notice must be given within the period of 60 days beginning with the day on which the associate becomes an associate of the person.
- (8) A person who, without reasonable excuse, fails to comply with this regulation commits an offence.
- (9) Without limiting paragraph (8), a person has a reasonable excuse in respect of a particular associate if—
 - (a) the person, having taken reasonable steps to do so, is unable—
 - (i) to establish that there any associates for the person, or
 - (ii) to obtain, or verify the accuracy of, the required details of the associate, and
 - (b) the person has given notice to that effect to the Keeper in the specified form.
- (10) A person who commits an offence under paragraph (8) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Required details of an associate

- 11.—**(1) For the purposes of these Regulations, the “required details” of an associate are—
- (a) the information about the associate specified in paragraph (2), and
 - (b) in every case—
 - (i) the date on which the associate's association with the person who owns or tenants the land was formed, or
 - (ii) a statement that such date is not known.
- (2) The information referred to in paragraph (1)(a) is—
- (a) in a case where the associate is an individual, the associate's—
 - (i) name,
 - (ii) contact address, and
 - (iii) day, month and year of birth,
 - (iv) if applicable, any unique reference number allocated to the associate by the Keeper under regulation 7,
 - (b) in a case where the associate is a non-natural person, other than a person of a type listed in schedule 2, the associate's—
 - (i) name,
 - (ii) if applicable, registered number,
 - (iii) the address of its registered office or, where it does not have such an office, an address at which it may be contacted,
 - (iv) if applicable, any unique reference number allocated to the associate by the Keeper under regulation 7, or
 - (c) in a case where the associate is a person of a type listed in schedule 2 (list of persons subject to other transparency regimes), the associate's—
 - (i) name,
 - (ii) if applicable, registered number,

- (iii) the address of its registered office or, where it does not have such an office, an address at which it may be contacted,
- (iv) if applicable, any unique reference number allocated to the associate by the Keeper under regulation 7,
- (v) the paragraph of schedule 2 that applies to the associate.

Information about events affecting the RCI

12.—(1) If an event mentioned in column 1 of the following table occurs, the person mentioned in column 2 of that table for the event must give the Keeper notice, in the specified form, of—

- (a) the event, and
- (b) the information specified in column 3 in relation to the event.

<i>Event</i> <i>(Column 1)</i>	<i>Person</i> <i>(Column 2)</i>	<i>Information to be given</i> <i>(Column 3)</i>
a recorded person becoming aware that a person notified under regulation 10(3) as being an associate ceases to be an associate	the recorded person	(a) the recorded person’s name and address, (b) the title number of the land, or where there is no title number, a description of the land that the recorded person owns or tenants which is sufficient for it to be identified, (c) the former associate’s required details, and (d) the date (if known) on which the former associate ceased to be an associate
a recorded person ceasing to be a person to whom regulation 10 applies	the recorded person	(a) the person’s name and address, (b) the title number of the land, or where there is no title number, a description of the land that the person owns or tenants which is sufficient for it to be identified, (c) the date on which regulation 10 ceased to apply to the person,
a recorded person becoming aware that any other information notified by the person under regulation 10(3) has changed	the recorded person	(a) the recorded person’s name and address, (b) the title number of the land, or where there is no title number, a description of the land that the recorded person owns or tenants which is sufficient for it to be identified,

<i>Event</i>	<i>Person</i>	<i>Information to be given</i>
<i>(Column 1)</i>	<i>(Column 2)</i>	<i>(Column 3)</i>
		(c) the change to the information, and (d) the date (if known) on which the change occurred.

(2) The notice must be given—

- (a) in a case where the associate has notified the recorded person of the event, as soon as practicable after receipt of the notification, or
- (b) in any other case, within 60 days beginning with the date on which the event occurred.

(3) Before giving notice under paragraph (2) the recorded person must take reasonable steps to verify the accuracy of the information to be given in the notice with the associate.

(4) A person who is subject to a duty under this regulation commits an offence if the person, without reasonable excuse, fails to comply with this regulation.

(5) Without limiting paragraph (4), a recorded person has a reasonable excuse in respect of a particular associate if—

- (a) the recorded person, having taken reasonable steps to do so, is unable to verify the accuracy of the information to be given in the notice, and
- (b) the recorded person has given notice to that effect to the Keeper in the specified form.

(6) A person who commits an offence under paragraph (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Notification of associates about registration

13.—(1) This regulation applies if a person gives the Keeper a notice about an associate under regulation 10(3).

(2) The person must give notice of that fact to the associate in the specified form.

(3) The notice must be given within the period of 7 days beginning on the day on which the notice was given under regulation 10(3).

(4) For the purpose of this regulation, the form of notice specified by the Keeper under regulation 24(3) must—

- (a) require the date that the notice under regulation 10(3) was given to be specified, and
- (b) inform the associate about the effect of the following provisions—
 - (i) regulation 15(3) and (5) (the duty of associates to provide information upon request),
 - (ii) regulation 16 (the right to make a security declaration).

(5) A person who, without reasonable excuse, fails to comply with this regulation commits an offence.

(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.

Information associates must provide

Associate's duty to notify of association

14.—(1) This regulation applies if—(1)

- (a) a person (“A”) knows, or reasonably ought to know, that A is an associate of a person (“B”) who owns or tenants land, and
 - (b) A has not received a notice under regulation 13 within 67 days of becoming such an associate.
- (2) A must, as soon as reasonably practicable, give notice to B of—
- (a) the fact that A is an associate of B in respect of the land, and
 - (b) A’s required details as an associate.
- (3) A person who, without reasonable excuse, fails to comply with paragraph (2) commits an offence.
- (4) A person who commits an offence under paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Duty of associate to provide information upon request

15.—(1) Paragraph (2) applies if a person (“A”) receives a request for verification of A’s required details from a person under regulation 10(5).

- (2) A must, as soon as reasonably practicable—
- (a) confirm that A is an associate and—
 - (i) indicate whether the details are correct (and if not, provide the correct details),
 - (ii) if applicable, state that A intends to make or has made a security declaration, or
 - (b) inform the person who made the request that A is not an associate.
- (3) Paragraph (4) applies if—
- (a) either of the following changes occurs—
 - (i) a change to the required details of an associate of a recorded person,
 - (ii) a person ceases to be an associate of a recorded person, and
 - (b) the change has not been reflected in the RCI or the associate has made a security declaration which remains in effect.
- (4) The associate or, as the case may be, the former associate must, as soon as reasonably practicable, give notice to the recorded person of the change and the date of the change (if known).
- (5) Paragraph (6) applies if a person (“A”) receives a request for verification of the accuracy of information under regulation 12(3).
- (6) A must indicate whether the information is correct (and if not, provide the correct information).
- (7) A person who, without reasonable excuse, fails to comply with paragraph (2), (4) or (6) commits an offence.
- (8) A person who commits an offence under paragraph (7) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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.