

## SCHEDULE 1

Persons who have significant influence or control over another

### PART 1

Contractual or other arrangements with an individual

#### Application

1. This Part applies to a person (the associate) where the person who owns or tenants the land (the recorded person) is an individual who has entered into a contract or other arrangement under which—

- (a) the recorded person owns or tenants the land for or on behalf of the associate, or
- (b) the associate has the right to exercise, or actually exercises, significant influence or control over the recorded person's dealings with the land.

#### Exceptions

2. This Part does not apply where one or more of the following is, or are, the only contractual or other arrangements between the person and the individual—

- (a) the person's contract or arrangement with the individual is one to which another Part of this schedule applies,
- (b) the person's relationship to the individual is that of—
  - (i) a creditor of the individual (such as the holder of a standard security), or
  - (ii) a paid professional advisor to the individual (such as a solicitor or an accountant),
- (c) the person is the landlord of the individual,
- (d) the land is owned in common by the person and the individual,
- (e) the land is tenanted jointly by the person and the individual,
- (f) the person's contract or arrangement with the individual is in the form of concluded missives for the sale of the land by the individual to the person where the title to the land has not been transferred to the person,
- (g) the person has been appointed under a power of attorney granted by the individual in accordance with section 15 of the Adults with Incapacity (Scotland) Act 2000 ("the 2000 Act")<sup>(1)</sup>
- (h) the person has been appointed as a guardian in respect of the individual under a guardianship order (within the meaning of section 58(4) of the 2000 Act),
- (i) the person's contract or arrangement with the individual is one to which the Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010<sup>(2)</sup> apply,
- (j) the person's contract or arrangement with the individual is that of a service agreement (that is, where the person is the employee of the individual and occupation or possession of the land is provided to the person by the individual in return or part return for the performance by the person of services under an employment agreement),

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(1) 2000 asp 4.

(2) S.I. 2010/2960. Regulation 5 sets out the contracts to which these regulations apply.

**Draft Legislation:** This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021 ISBN 978-0-11-104814-6

- (k) the person's contract or arrangement with the individual is as a liferenter under a proper liferent registered or recorded under section 51 of the Land Registration (Scotland) Act 2012<sup>(3)</sup>,
- (l) the person's contract or arrangement with the individual is an agreement as to the financial provision to be made on divorce or the dissolution of a civil partnership, between the person and the individual, as the case may be,
- (m) the person's contract or arrangement with the individual is a cohabitation agreement (that is, an agreement between two persons living together as if they are spouses),
- (n) the person has a personal real burden (within the meaning of section 122(1) of the Title Conditions (Scotland) Act 2003<sup>(4)</sup>) over the land that is owned or tenanted by the individual,
- (o) the person is the holder of a licence which grants the right to use or exploit land, or any part of land owned or tenanted by the individual,
- (p) the person possesses a right of occupation over land owned or tenanted by the individual without any form of payment or other consideration being required in return.

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<sup>(3)</sup> 2012 asp 5.  
<sup>(4)</sup> 2003 asp 9.