



# Public Services Reform (Scotland) Act 2010 2010 asp 8

## PART 4

### CREATIVE SCOTLAND

#### *Creative Scotland*

#### **36 Establishment of Creative Scotland**

- (1) There is established a body to be known as Creative Scotland or Alba Chruthachail.
- (2) Schedule 9 (which makes further provision about the status, constitution, proceedings etc. of Creative Scotland) has effect.

#### **37 General functions of Creative Scotland**

- (1) Creative Scotland has the general functions of—
  - (a) identifying, supporting and developing quality and excellence in the arts and culture from those engaged in artistic and other creative endeavours,
  - (b) promoting understanding, appreciation and enjoyment of the arts and culture,
  - (c) encouraging as many people as possible to access and participate in the arts and culture,
  - (d) realising, as far as reasonably practicable to do so, the value and benefits (in particular, the national and international value and benefits) of the arts and culture,
  - (e) encouraging and supporting artistic and other creative endeavours which contribute to an understanding of Scotland's national culture in its broad sense as a way of life,
  - (f) promoting and supporting industries and other commercial activity the primary focus of which is the application of creative skills.

- (2) In exercising the function mentioned in subsection (1)(c), Creative Scotland must do so with a view to increasing the diversity of people who access and participate in the arts and culture.
- (3) Creative Scotland may encourage and support such persons as it considers appropriate in the exercise by those persons of any of the functions mentioned in paragraphs (a) to (f) of subsection (1) (or functions similar to those).
- (4) In subsection (3), “persons” includes groups of persons.

### **38 Advisory and other functions**

- (1) Creative Scotland must provide the Scottish Ministers with such advice, information and assistance as they may reasonably require in relation to—
  - (a) the arts and culture,
  - (b) industries and other commercial activity the primary focus of which is the application of creative skills,
  - (c) the exercise of any of Creative Scotland’s functions.
- (2) Creative Scotland may provide the Scottish Ministers with such other advice and information as it considers appropriate in relation to the matters mentioned in subsection (1)(a), (b) and (c).
- (3) Creative Scotland may provide such other persons as it considers appropriate with such advice, information and assistance as it considers appropriate in relation to—
  - (a) the arts and culture,
  - (b) industries and other commercial activity the primary focus of which is the application of creative skills.
- (4) Any advice, information or assistance under subsection (1) or (2) must be provided in such manner as the Scottish Ministers may determine.
- (5) In this section, “assistance” does not include financial assistance.
- (6) In subsection (3), “persons” includes groups of persons.

### **39 Grants and loans**

- (1) The Scottish Ministers may make grants to Creative Scotland.
- (2) In addition to any grants made under subsection (1), the Scottish Ministers may make grants to Creative Scotland for particular purposes.
- (3) A grant under subsection (1) or (2) is subject to such terms and conditions (including conditions as to repayment) as the Scottish Ministers may determine.
- (4) Creative Scotland may make grants and loans to such persons as it considers appropriate for the purpose of, in connection with, or where it appears conducive to, the exercise of its functions.
- (5) A grant or loan under subsection (4) is subject to such terms and conditions (including conditions as to repayment) as Creative Scotland may determine.

#### **40 Directions and guidance**

- (1) The Scottish Ministers may give Creative Scotland directions (of a general or specific nature) as to the exercise of its functions.
- (2) But the Scottish Ministers may not give directions so far as relating to artistic or cultural judgement in respect of the exercise of Creative Scotland’s functions under section 37(1) or (3), 38(3) or 39(4).
- (3) Creative Scotland must—
  - (a) comply with any directions given to it by the Scottish Ministers under this Part,
  - (b) have regard to any guidance issued by the Scottish Ministers in relation to the exercise of its functions.
- (4) Subject to subsection (2), the Scottish Ministers may vary or revoke any direction given under this Part.

#### *Miscellaneous and general*

#### **41 Dissolution of Scottish Arts Council**

- (1) The Scottish Arts Council is dissolved and the charter constituting that body is revoked.
- (2) In subsection (1), the “charter” is the Royal Charter granted by Her Majesty on 8 February 1994.

#### **42 Transfer of staff etc.**

- (1) With effect from the date on which section 41 comes into force—
  - (a) any person employed by—
    - (i) the Scottish Arts Council immediately before that date, or
    - (ii) Scottish Screen immediately before that date,is transferred into the employment of Creative Scotland,
  - (b) all property (including rights) and liabilities of—
    - (i) the Scottish Arts Council subsisting immediately before that date,
    - (ii) Scottish Screen subsisting immediately before that date,are transferred to, and vest in, Creative Scotland.
- (2) The contract of employment of a person transferred by virtue of subsection (1)(a)—
  - (a) is not terminated by the transfer, and
  - (b) has effect from the date of transfer as if originally made between the person and Creative Scotland.
- (3) Without prejudice to subsection (2), where a person is transferred by virtue of subsection (1)(a)—
  - (a) all the rights, powers, duties and liabilities of the Scottish Arts Council or, as the case may be, Scottish Screen, under or in connection with the person’s contract of employment are transferred to Creative Scotland on the date of transfer, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) anything done before that date by or in relation to the Scottish Arts Council or, as the case may be, Scottish Screen, in respect of the person or the contract is to be treated from that date as having been done by or in relation to Creative Scotland.
- (4) Subsections (1) to (3) do not affect any right of any person so transferred to terminate the person's contract of employment if the terms and conditions of employment are changed substantially to the detriment of the person; but any such change is not to be taken to have occurred by reason only that the identity of the person's employer changes by virtue of those subsections.

### **43 Creative Scotland: modifications of enactments**

Schedule 10 (which contains modifications of enactments consequential on this Part) has effect.