Judiciary and Courts (Scotland) Act 2008

2008 asp 6

PART 4

[[F1]THE SCOTTISH COURTS AND TRIBUNALS SERVICE]

Ministerial powers

68 Provision of information

The [[F1]SCTS] must provide the Scottish Ministers with such information relating to the carrying out of its functions as the Scottish Ministers may require.

Textual Amendments

F1 Word in Act substituted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 4 para. 1(2)**; S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

Commencement Information

I1 S. 68 in force at 1.4.2010 by S.S.I. 2010/39, art. 2(b), **Sch.**

69 Guidance

The [[F1]SCTS] must, in carrying out its functions, have regard to any guidance issued by the Scottish Ministers.

Textual Amendments

F1 Word in Act substituted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 4 para. 1(2)**; S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

Commencement Information

I2 S. 69 in force at 1.4.2010 by S.S.I. 2010/39, art. 2(b), **Sch.**

Changes to legislation: *There are currently no known outstanding effects for the Judiciary and Courts (Scotland) Act 2008, Cross Heading: Ministerial powers. (See end of Document for details)*

70 Default power

(1) Subsection (2) applies if the Scottish Ministers consider—

(a) that the **[**[F1]SCTS**]** is—

(i) failing to carry out its functions to such an extent that there is a significant risk to the efficient and effective functioning of the Scottish courts **[**[F2]or the Scottish Tribunals**]**, or

(ii) is carrying them out in such a way that there is such a risk, and

(b) that in order to avoid or mitigate that risk it is necessary that the functions be carried out instead by them.

(2) Where this subsection applies, the Scottish Ministers may by order provide for the functions of the **[**[F1]SCTS**]** to be carried out instead by them.

(3) So far as necessary for the purpose of the carrying out by the Scottish Ministers of the functions of the **[**[F1]SCTS**]** by virtue of subsection (2)—

(a) references in any enactment to the **[**[F1]SCTS**]** are to be read as references to the Scottish Ministers,

(b) staff of the **[**[F1]SCTS**]** are to be treated as if they were staff of the Scottish Ministers, and

(c) property and liabilities of the **[**[F1]SCTS**]** are to be treated as property and liabilities of the Scottish Ministers.

(4) Subsection (3) is subject to any provision made in an order under subsection (2).

(5) A statutory instrument containing an order under subsection (2) (other than one to which subsection (7) applies)—

(a) is to be laid before the Scottish Parliament after being made, and

(b) unless earlier revoked, ceases to have effect at the end of the period of 40 days beginning with the day on which it is made if it is not by then approved by resolution of the Parliament.

(6) Subsection (7) applies to a statutory instrument containing an order under subsection (2) consisting only of—

(a) provision revoking an earlier order under subsection (2), or

(b) such provision and provision made by virtue of section 71(2).

(7) A statutory instrument to which this subsection applies is subject to annulment in pursuance of a resolution of the Parliament.

(8) If an order under subsection (2) ceases to have effect by virtue of subsection (5)(b)—

(a) that does not affect—

(i) the validity of anything done by or in relation to the Scottish Ministers by virtue of the order, or

(ii) the power to make a further order under subsection (2), and

(b) the Scottish Ministers may by order make such consequential provision as they consider necessary or expedient.

(9) In calculating a period of 40 days for the purpose of subsection (5)(b), no account is to be taken of any time during which the Parliament is—

(a) dissolved, or

(b) in recess for more than 4 days.

Textual Amendments

F1 Word in Act substituted (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 4 para. 1(2)**; S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

F2 Words in s. 70(1)(a)(i) inserted (1.4.2015) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 4 para. 1(5)**; S.S.I. 2015/77, art. 2(2)(3), Sch.

Modifications etc. (not altering text)

C1 S. 70 applied (temp.) (2.2.2015 for specified purposes, 1.4.2015 in so far as not already in force) by Courts Reform (Scotland) Act 2014 (asp 18), s. 138(2), **Sch. 4 para. 3(1)**; S.S.I. 2015/12, art. 2; S.S.I. 2015/77, art. 2(2)(3), Sch.

Commencement Information

I3 S. 70 in force at 1.4.2010 by S.S.I. 2010/39, art. 2(b), **Sch.**

Changes to legislation:
There are currently no known outstanding effects for the Judiciary and Courts (Scotland) Act 2008, Cross Heading: Ministerial powers.