



Public Services Reform (Scotland) Act 2010

2010 asp 8

PART 2

ORDER-MAKING POWERS

Improving the exercise of public functions

15 Public functions: further provision

- (1) Schedule 5, which lists persons, bodies and office-holders for the purposes of section 14, has effect.
- (2) The Scottish Ministers may by order modify schedule 5 by—
 - (a) adding an entry for any person, body or office-holder falling within subsection (5),
 - (b) removing any entry.
- (3) An order under subsection (2)(a) containing provision adding an entry to schedule 5 may include provision adding a corresponding entry to schedule 6.
- (4) An order under subsection (2)(b) containing provision removing an entry from schedule 5 must include provision removing any corresponding entry from schedule 6.
- (5) Those persons, bodies and office-holders are—
 - (a) an office-holder in the Scottish Administration,
 - (b) a Scottish public authority with mixed functions or no reserved functions,
 - (c) a cross-border public authority,
 - (d) a publicly-owned company,
 - (e) any other person, not being a public body or the holder of a public office, who either—
 - (i) appears to the Scottish Ministers to exercise functions of a public nature, or

Status: This is the original version (as it was originally enacted).

- (ii) is providing, under a contract made with a person, body or office-holder listed in schedule 5, any service the provision of which is the function of that person, body or office-holder.
- (6) A company is publicly-owned for the purposes of subsection (5)(d) if it is wholly owned—
 - (a) by the Scottish Ministers, or
 - (b) by any other person, body or office-holder listed in schedule 5 except a person, body or office-holder listed—
 - (i) by virtue of subsection (5)(e)(i) in relation only to some of its functions, or
 - (ii) by virtue of subsection (5)(e)(ii).
- (7) For the purposes of subsection (6) a company is wholly owned—
 - (a) by the Scottish Ministers if it has no members except—
 - (i) the Scottish Ministers or companies wholly owned by the Scottish Ministers, or
 - (ii) persons acting on behalf of the Scottish Ministers or of such companies,
 - (b) by any other person, body or office-holder if it has no members except—
 - (i) the person, body or office-holder or companies wholly owned by the person, body or office-holder, or
 - (ii) persons acting on behalf of the person, body or office-holder or of such companies.
- (8) An entry added to schedule 5 by an order under subsection (2)(a) made by virtue of subsection (5)(e) must specify the functions of a public nature or, as the case may be, the service being provided; and only those functions or that service are public functions of the person in question for the purposes of section 14(1).
- (9) In this section—
 - “company” includes any body corporate;
 - “local authority” means a council constituted by section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);
 - “Scottish public authority with mixed functions or no reserved functions” is to be construed in accordance with paragraphs 1(4) and 2 of Part 3 of Schedule 5 to the Scotland Act 1998 (c. 46); but does not include a local authority.