



Regulatory Reform (Scotland) Act 2014

2014 asp 3

PART 2

PRIMARY AUTHORITIES

12 Primary authorities: power to make further provision

- (1) The Scottish Ministers may by order make further provision about the exercise of relevant functions by primary authorities in relation to persons (in this section, “regulated persons”).
- (2) The provision that may be made under subsection (1) includes provision—
 - (a) requiring a local authority other than the primary authority (an “enforcing authority”) to notify the primary authority before taking any enforcement action against a regulated person pursuant to the relevant function,
 - (b) prescribing the circumstances in which—
 - (i) the enforcing authority may not take any enforcement action against a regulated person,
 - (ii) the primary authority may direct the enforcing authority not to take any enforcement action against a regulated person,
 - (iii) the enforcing authority must notify the primary authority that it has taken enforcement action against a regulated person,
 - (c) specifying time periods for the purposes of paragraph (b),
 - (d) prescribing the circumstances in which provision made by virtue of paragraphs (a) to (c) does not apply including, in particular, circumstances—
 - (i) where the enforcement action is required urgently to avoid a significant risk of serious harm to human health, the environment (including the health of animals or plants) or the financial interests of consumers,
 - (ii) where the application of provision made by virtue of those paragraphs would be wholly disproportionate,
 - (e) requiring an enforcing authority to notify the primary authority, as soon as reasonably practicable, of any enforcement action it takes against a regulated person in circumstances prescribed under paragraph (d).
- (3) In subsection (2), “enforcement action” means any action—

*Changes to legislation: There are currently no known outstanding effects for the
Regulatory Reform (Scotland) Act 2014, Section 12. (See end of Document for details)*

- (a) which relates to securing compliance with or enforcement of any requirement, restriction, condition, standard, outcome or guidance in the event of breach (or putative breach) of the requirement, restriction, condition, standard, outcome or (as the case may be) guidance,
 - (b) taken with a view to or in connection with—
 - (i) the imposition of any sanction (criminal or otherwise) in respect of an act or omission, or
 - (ii) the pursuit of any remedy conferred by an enactment in respect of an act or omission.
- (4) Where a relevant function consists of or includes a function of inspection, an order under subsection (1) may make provision for or about an inspection plan including, in particular, provision for or in connection with—
- (a) prescribing the circumstances in which a primary authority may make, revise or withdraw an inspection plan,
 - (b) specifying the matters that a primary authority must take into account in preparing an inspection plan,
 - (c) specifying the matters that must be included in an inspection plan,
 - (d) prescribing the circumstances in which a primary authority must consult a regulated person in relation to the carrying out of the function of inspection,
 - (e) prescribing the arrangements for notifying a local authority about the making, revising or withdrawal of an inspection plan,
 - (f) specifying the duties of a local authority in relation to an inspection plan,
 - (g) prescribing the circumstances in which a local authority must notify a primary authority before carrying out the function of inspection.
- (5) An “inspection plan” is a plan made by a primary authority containing recommendations as to how a local authority with the function of inspection should exercise that function in relation to a regulated person.
- (6) Before making an order under subsection (1), the Scottish Ministers must consult—
- (a) any primary authority to which the order would apply,
 - (b) such persons or bodies as appear to the Scottish Ministers to represent the interests of persons substantially affected by the proposed order, and
 - (c) such other persons or bodies as the Scottish Ministers consider appropriate.

Commencement Information

II S. 12 in force at 30.6.2014 by S.S.I. 2014/160, art. 2(1)(2), Sch.

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