



# 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**

- [<sup>F1</sup>(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

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- (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.]

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#### Textual Amendments

- F1** Ss. 14-30 cease to have effect (2.8.2015) by virtue of [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), [s. 134\(2\)\(3\)](#) (with [s. 134\(4\)\(5\)](#)); however, ss. 14-30 continue to have effect until 4.6.2020 by virtue of [The Public Services Reform \(Scotland\) Act 2010 \(Part 2 Extension\) Order 2015 \(S.S.I. 2015/234\)](#), [arts. 1, 2](#); which continuation is further extended until 5.5.2025 by [The Public Services Reform \(Scotland\) Act 2010 \(Part 2 Further Extension\) Order 2020 \(S.S.I. 2020/140\)](#), [arts. 1, 2](#)
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#### Commencement Information

- II** S. 15 in force at 1.8.2010 by [S.S.I. 2010/221](#), [art. 3\(2\)](#), [Sch.](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 34](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 5 Ch. 3A amendment to earlier affecting provision 2019 asp 6, s. 12(2) by [S.S.I. 2023/127 reg. 3\(4\)](#)
- Pt. 5 Ch. 3A inserted by [2019 asp 6 s. 12\(2\)](#)