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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2019 No.**

**The Additional Powers Request (Scotland) Regulations 2019**

**PART 2**

**Additional powers requests: procedure**

**Requests for additional powers**

**3.** A relevant local authority may make an additional powers request to the Scottish Ministers in accordance with these Regulations.

**Reasonable cause**

**4.** Prior to making an additional powers request, the requesting local authority must be satisfied that it can demonstrate reasonable cause for requesting the proposed additional power.

**Consultation on additional powers request**

**5.—(1)** Prior to making an additional powers request, the requesting local authority must consult the consultees in accordance with this regulation.

(2) The consultees referred to in paragraph (1) are—

- (a) the relevant island community,
- (b) the person, body or authority that currently exercises the proposed additional power, if not the Scottish Ministers,
- (c) any other relevant authority that the requesting local authority considers appropriate, and
- (d) any other persons appearing to the requesting local authority to have an interest in the proposed additional power.

(3) The requesting local authority must give the consultees notice of the proposed additional power.

(4) The notice must—

- (a) give a summary of the proposed additional power,
- (b) state the requesting local authority's reasons for proposing to request the proposed additional power, and
- (c) give information about how to make written representations on the proposed additional power (including to whom such representations should be submitted).

(5) The notice must also—

- (a) state the date of the last day of the consultation period,
- (b) advise that this is the period within which written representations must be received by the requesting local authority for them to be taken into account, and

- (c) where the requesting local authority has decided to hold a public meeting or meetings on the proposed additional power, the date, time and place of that meeting or those meetings.
- (6) In this regulation, the “consultation period” is a period (fixed by the requesting local authority) of at least 12 weeks that—
  - (a) starts on the day (or last day) on which the notice required by paragraph (3) is given, and
  - (b) runs continuously.

### **Form and content of an additional powers request**

**6.—(1)** An additional powers request must be made in writing and must state that it is an additional powers request made under these Regulations.

(2) An additional powers request must also—

- (a) state the name of the requesting local authority,
- (b) give a summary of the additional power,
- (c) state the name of the person, body or authority that currently exercises the additional power,
- (d) describe the involvement that the requesting local authority already has in the exercise of the additional power, if any,
- (e) state the reasons for making the additional powers request,
- (f) include a report on the consultation carried out under regulation 5,
- (g) include information on the level and nature of support from the relevant island community for the exercise by the requesting local authority of the additional power,
- (h) detail the anticipated implications of the exercise of the additional power by the requesting local authority, including any impact on outcomes in that authority’s area,
- (i) outline how it is proposed that the additional power will be exercised by the requesting local authority,
- (j) include any other information that the requesting local authority considers is relevant for the purposes of demonstrating reasonable cause for making the additional powers request, and
- (k) include any evidence that the requesting local authority considers relevant in support of the information or documentation provided under this regulation.

### **Acknowledgement of requests**

**7.—(1)** Where the Scottish Ministers receive an additional powers request which—

- (a) complies with regulation 6(1), but
- (b) does not contain, or is not accompanied by, all the information or documentation which the requesting local authority is required to submit in order to comply with regulation 6(2),

the Scottish Ministers must, within 10 working days of receipt, send the requesting local authority a notice identifying the information or documentation which that authority still requires to submit in order to comply with regulation 6(2).

(2) Where the Scottish Ministers have received—

- (a) an additional powers request which complies with regulation 6(1), and
- (b) all the information or documentation which the requesting local authority is required to submit in order to comply with regulation 6(2),

the Scottish Ministers must send an acknowledgement to the requesting local authority within 10 working days of the validation date.

(3) The acknowledgement sent under paragraph (2) must set out the validation date for the additional powers request.

### **Validation date**

**8.** An additional powers request is taken to have been made on the date on which the last of the items or information required to be contained in or accompany an additional powers request in accordance with regulation 6(2) is received by the Scottish Ministers (“the validation date”).

### **Publication of an additional powers request notice**

**9.—(1)** Within 10 working days following the validation date, the Scottish Ministers must publish—

- (a) a notice,
- (b) the additional powers request, and
- (c) the documents or information accompanying the request,

on a website or by other electronic means.

(2) The notice under paragraph (1)(a) must—

- (a) state that an additional powers request has been made to the Scottish Ministers,
- (b) identify the requesting local authority,
- (c) provide details of the additional power,
- (d) state the requesting local authority’s reasons for making the additional powers request,
- (e) state how the additional powers request and any other documents submitted in connection with it may be inspected, and
- (f) state that written representations may be made to the Scottish Ministers and include information as to how any representations may be made and by which date they must be made (being a date not earlier than 20 working days after the date on which the notice is published).

(3) As soon as practicable following publication, the Scottish Ministers must send a copy of the notice under paragraph (1)(a) to the relevant local authorities except the requesting local authority.

### **Opportunity for the requesting local authority to comment on representations**

**10.—(1)** Within 10 working days following the date referred to in regulation 9(2)(f), the Scottish Ministers must send a copy of any representations received in response to a notice published under regulation 9(1)(a) to the requesting local authority and inform that authority how and by what date (being a date not less than 20 working days after the date on which such copy is sent under this regulation) it may make comments in writing to the Scottish Ministers on such representations.

(2) The requesting local authority may, on or before that date, make comments in writing on such representations to the Scottish Ministers.

### **Publication of representations and comments**

**11.** As soon as practicable following receipt, the Scottish Ministers must make copies of any representations or comments received by them by virtue of regulations 9(2) or 10(2) available for inspection on a website or by other electronic means, until such time as the Scottish Ministers publish a decision notice in accordance with regulation 13.