
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

The Additional Powers Request (Scotland) Regulations 2019

PART 3

Additional powers requests: decisions

Decisions

12.—(1) The Scottish Ministers must decide whether to give effect to or to refuse an additional powers request.

(2) The Scottish Ministers must not unreasonably refuse an additional powers request.

(3) In reaching their decision, the Scottish Ministers must consider the following matters—

- (a) any obligations or restrictions imposed on the Scottish Ministers, by or under any enactment or otherwise, that may prevent, restrict or otherwise affect their powers or ability to give effect to an additional powers request,
- (b) the reasons for the requesting local authority making the additional powers request,
- (c) whether the requesting local authority has demonstrated reasonable cause for making the additional powers request,
- (d) any other information relating to the additional powers request, and
- (e) such other matters (whether or not included in or arising out of the request) as the Scottish Ministers consider relevant.

(4) Where the Scottish Ministers decide to give effect to an additional powers request, the Scottish Ministers may decide to extend the additional power.

(5) In these Regulations—

- (a) to “give effect to an additional powers request” means to—
 - (i) transfer the additional power, or
 - (ii) promote legislation devolving the additional power, to the requesting local authority,
- (b) to “extend the additional power” means to—
 - (i) transfer the additional power, or
 - (ii) promote legislation devolving the additional power, to one or more of the other relevant local authorities.

Time periods for decision

13.—(1) The Scottish Ministers must, within the period mentioned in paragraph (2)—

- (a) issue a decision notice to the requesting local authority,

- (b) where the Scottish Ministers decide to extend the additional power, give a copy of the decision notice to any relevant local authorities to which the additional power is to be extended under regulation 12(4),
 - (c) publish a copy of the decision notice on a website or by other electronic means, and
 - (d) inform every person who made written representations in respect of the additional powers request (and provided an address) of their decision and where a copy of the decision notice is available for inspection.
- (2) The period referred to in paragraph (1) is—
- (a) the period of 6 months beginning with the validation date, or
 - (b) such longer period as may be agreed between the Scottish Ministers and the requesting local authority.

Decision notice

- 14.**—(1) The decision notice must—
- (a) identify the requesting local authority,
 - (b) describe the additional power,
 - (c) state the Scottish Ministers’ decision under regulation 12(1) and the reasons for that decision,
 - (d) where the Scottish Ministers decide to extend the additional power—
 - (i) state the reasons for that decision, and
 - (ii) identify the relevant local authorities to which the additional power is to be extended,
 - (e) where the Scottish Ministers refuse the additional powers request, provide information about the right to apply for review under regulation 15(2), including—
 - (i) how an application for review may be made, and
 - (ii) the date by which an application for review must be made.
- (2) The date referred to in paragraph (1)(e)(ii) must be a date no earlier than three months after the date of the decision notice.