



Regulatory Reform (Scotland) Act 2014

2014 asp 3

PART 1

REGULATORY FUNCTIONS

Regulations to encourage or improve regulatory consistency

2 Regulations under section 1: further provision

- (1) Regulations under section 1 (“the regulations”) may include provision requiring a regulator—
 - (a) to secure compliance with or enforce an existing regulatory requirement,
 - (b) to impose, set, secure compliance with or enforce any other regulatory requirement which the regulator proposes to, or may, impose or set.
- (2) Subject to subsection (3), the regulations may also include provision—
 - (a) amending a regulatory requirement,
 - (b) for a regulatory requirement to cease to have effect (by means of repealing or revoking an enactment containing the requirement or otherwise),
 - (c) creating a regulatory requirement,
 - (d) requiring a regulator to create, amend or remove a regulatory requirement,
 - (e) where a regulator is required to act as mentioned in paragraph (d), imposing conditions in relation to that requirement.
- (3) The regulations may not include provision that would—
 - (a) amend a regulatory requirement which, by or under an enactment (a “mandatory enactment”)—
 - (i) must be complied with, met, attained or achieved, and
 - (ii) a regulator is required to impose or set,
 - (b) repeal or revoke a mandatory enactment.
- (4) But the regulations may include provision such as is mentioned in subsection (3) if the regulations otherwise make provision having an equivalent effect to the mandatory enactment.

Status: This is the original version (as it was originally enacted).

- (5) A provision in the regulations requiring a regulator to impose or set a regulatory requirement is not a mandatory enactment for the purposes of subsection (3) (unless such provision is included by virtue of subsection (4)).
- (6) Where the regulations include provision such as is mentioned in subsection (2), they may also include provision preventing a regulator from imposing or setting a regulatory requirement—
 - (a) that amends, replaces or revokes a regulatory requirement amended or created by the regulations,
 - (b) that has an equivalent effect to a regulatory requirement which ceases to have effect by virtue of the regulations.
- (7) Where the regulations make provision that would (but for this subsection) apply to a regulator, the Scottish Ministers may, if they consider it necessary or expedient, direct that, for a period no longer than that mentioned in subsection (8)—
 - (a) the provision is not to apply to the regulator, or
 - (b) the provision is to apply to the regulator—
 - (i) with such modifications as may be specified in the direction,
 - (ii) subject to such conditions as may be so specified.
- (8) The period is that beginning with the day on which the direction is given and ending 6 months later.
- (9) The Scottish Ministers must publish (in such manner as they consider appropriate) any direction given under subsection (7).
- (10) Where the regulations include provision such as is mentioned in subsection (1)(b), such provision does not affect any requirement for the regulator to consult before imposing or setting the regulatory requirement mentioned in that subsection.
- (11) This section is without prejudice to the generality of the power to make regulations under section 1.