

# **PUBLIC SERVICES REFORM (SCOTLAND) ACT 2010**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 2 – Order-Making Powers**

##### **General restrictions**

##### ***Section 20 - Subordinate legislation and powers of direction, appointment and consent***

40. This section provides that an order under sections 14 or 17(1) can only confer a function of legislating on the Scottish Ministers, the First Minister or Lord Advocate and cannot delegate this function. In addition, an order under section 14 or 17(1) cannot transfer to other persons any function of giving directions, appointing a person to any office or position, or consenting to any thing, which is conferred by legislation on Scottish Ministers, the First Minister or the Lord Advocate.

##### ***Section 21 - Local taxation***

41. This section provides that an order under section 14 or 17(1) cannot be used to impose, vary or abolish any local tax to fund local authority expenditure.

##### ***Section 22 - Criminal penalties***

42. This section restricts the extent to which criminal penalties can be imposed by an order under section 14 or 17(1).

##### ***Section 23 - Forcible entry etc.***

43. This section provides that an order under section 14 or 17(1) cannot authorise forcible entry, search or seizure, or compel the giving of evidence except where it merely extends an existing power for similar purposes or restates an enactment.

##### ***Section 24 - Prohibition on modification of this Part***

44. This section provides that in general an order under section 14 or 17(1) may not make provision modifying any provision of Part 2 other than schedule 5. Section 14(6)(b) does however specifically provide that an order under section 14 may also include provision adding a person, body or office-holder created in pursuance of section 14(3) (c) to schedule 6.