



Freedom of Information (Scotland) Act 2002

2002 asp 13

PART 1

ACCESS TO INFORMATION HELD BY SCOTTISH PUBLIC AUTHORITIES

Right to information

5 Further power to designate Scottish public authorities

- (1) The Scottish Ministers may by order designate as a Scottish public authority for the purposes of this Act any person mentioned in subsection (2) who—
 - (a) is neither for the time being listed in schedule 1 nor capable of being added to that schedule by order under section 4(1); and
 - (b) is neither a public body nor the holder of any public office.
- (2) The persons are those who either—
 - (a) appear to the Scottish Ministers to exercise functions of a public nature; or
 - (b) are providing, under a contract made with a Scottish public authority, any service whose provision is a function of that authority.
- (3) An order under subsection (1) may designate a specified person or persons falling within a specified description.
- (4) An order under subsection (1) made by virtue of—
 - (a) subsection (2)(a) must specify the functions of a public nature which appear to be exercised;
 - (b) subsection (2)(b) must specify the service being provided.
- [^{F1}(5) Before making an order under subsection (1), the Scottish Ministers must—
 - (a) consult—
 - (i) every person to whom the order relates, or
 - (ii) persons appearing to them to represent such persons, and
 - (b) also consult such other persons as they consider appropriate.]

Changes to legislation: Freedom of Information (Scotland) Act 2002, Section 5 is up to date with all changes known to be in force on or before 20 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Textual Amendments

- F1** [S. 5\(5\)](#) substituted (31.5.2013) by [Freedom of Information \(Amendment\) \(Scotland\) Act 2013 \(asp 2\)](#), [ss. 1\(1\)](#), 7; [S.S.I. 2013/136](#), art. 2

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

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

- sch. 1 para. 74A inserted by [2023 asp 6 sch. 2 para. 2\(2\)](#)