



# Community Empowerment (Scotland) Act 2015

2015 asp 6

## PART 3

### PARTICIPATION REQUESTS

#### *Key definitions*

#### **19 Meaning of “community-controlled body”**

In this Part, a “community-controlled body” means a body (whether corporate or unincorporated) having a written constitution that includes the following—

- (a) a definition of the community to which the body relates,
- (b) provision that the majority of the members of the body is to consist of members of that community,
- (c) provision that the members of the body who consist of members of that community have control of the body,
- (d) provision that membership of the body is open to any member of that community,
- (e) a statement of the body’s aims and purposes, including the promotion of a benefit for that community, and
- (f) provision that any surplus funds or assets of the body are to be applied for the benefit of that community.

#### **20 Meaning of “community participation body”**

(1) In this Part, “community participation body” means—

- (a) a community-controlled body,
- (b) a community council established in accordance with Part 4 of the Local Government (Scotland) Act 1973,
- (c) a body mentioned in subsection (2), or
- (d) a group mentioned in subsection (4).

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- (2) The body is a body (whether corporate or unincorporated)—
  - (a) that is designated as a community participation body by an order made by the Scottish Ministers for the purposes of this Part, or
  - (b) that falls within a class of bodies designated as community participation bodies by such an order for the purposes of this Part.
- (3) Where the power to make an order under subsection (2)(a) is exercised in relation to a trust, the community participation body is to be the trustees of the trust.
- (4) The group is a group—
  - (a) that comprises a number of individuals who are members of the group,
  - (b) that has no written constitution,
  - (c) that relates to a particular community,
  - (d) membership of which is open to any member of that community,
  - (e) whose decisions are made or otherwise controlled by members of the group who are members of that community, and
  - (f) any surplus funds and assets of which are to be applied for the benefit of that community.

## **21 Meaning of “public service authority”**

- (1) In this Part, “public service authority” means—
  - (a) a person listed, or of a description listed, in schedule 2, or
  - (b) a person mentioned in subsection (3).
- (2) The Scottish Ministers may by order modify schedule 2 so as to—
  - (a) remove an entry listed in it,
  - (b) amend an entry listed in it.
- (3) The person is a person—
  - (a) that is designated as a public service authority by an order made by the Scottish Ministers for the purposes of this Part, or
  - (b) that falls within a class of persons designated as public service authorities by such an order for the purposes of this Part.
- (4) An order under subsection (3) may designate a person, or class of persons, only if the person, or (as the case may be) each of the persons falling within the class, is—
  - (a) a part of the Scottish Administration,
  - (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998), or
  - (c) a publicly-owned company.
- (5) In subsection (4)(c), “publicly-owned company” means a company that is wholly owned by one or more public service authorities.
- (6) For that purpose, a company is wholly owned by one or more public service authorities if it has no members other than—
  - (a) the public service authority or (as the case may be) authorities,
  - (b) other companies that are wholly owned by the public service authority or (as the case may be) authorities, or
  - (c) persons acting on behalf of—

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- (i) the public service authority or (as the case may be) authorities, or
  - (ii) such other companies.
- (7) In this section, “company” includes any body corporate.
- (8) Subsection (9) applies where the Scottish Ministers make an order under subsection (3).
- (9) The Scottish Ministers may specify in the order a public service that is or may be provided by or on behalf of the person designated, or (as the case may be) a person falling within the class designated, in respect of which a specified outcome may not be specified in a participation request.