

SOUTH OF SCOTLAND ENTERPRISE ACT 2019

EXPLANATORY NOTES

THE ACT

Establishment

Section 1 (South of Scotland Enterprise)

5. [Section 1](#) brings South of Scotland Enterprise into existence as a legal person.
6. Subsection (2) states that it is a body corporate. This means that it has a legal personality separate from that of the people who comprise it (see section 2) so that, ordinarily, those people will not be personally liable for things done, or not done, by South of Scotland Enterprise.

Section 2 (People constituting body and staff)

7. Subsection (1) of section 2 provides that South of Scotland Enterprise is to be comprised by its appointed members and its chief executive. This means, in effect, that they collectively constitute its governing board.
8. South of Scotland Enterprise is to have between 6 and 11 appointed members; that is a chairing member and between 5 and 10 ordinary members.
9. Subsection (2) makes schedule 1 part of the Act. For an explanation of the schedule's provisions see paragraphs 60 to 68 of these Notes. Amongst other things, schedule 1 deals with the appointment of South of Scotland Enterprise's members and its chief executive.

Section 3 (Exclusion of Crown status)

10. [Section 3](#) confirms that South of Scotland Enterprise is not an emanation of the Crown. The Crown, which for this purpose broadly means the executive branch of government, enjoys certain privileges and immunities in law. South of Scotland Enterprise is not to be regarded as a government body and therefore none of the particular legal rules that apply to government bodies apply to South of Scotland Enterprise.
11. Subsection (2) of section 3 confirms that South of Scotland Enterprise's members and staff are not civil servants. This means that none of the statutes that make provision about the civil service (see, for example, [Part 1 of the Constitutional Reform and Governance Act 2010](#)) apply to the people who comprise, and work for, South of Scotland Enterprise.

Section 4 (Application of public bodies legislation)

12. [Section 4](#) makes schedule 2 part of the Act. For an explanation of the schedule's provisions see paragraphs 69 to 87 of these Notes.
13. [Schedule 2](#) modifies other enactments, including subordinate legislation. Where primary legislation, like the Act, modifies another enactment ("enactment A"), and an

*These notes relate to the South of Scotland Enterprise Act
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earlier enactment confers a power to modify enactment A by subordinate legislation, there may be doubt about whether that power can be used to further modify enactment A. Section 4(2) confirms that any power to modify an enactment can continue to be used to modify that enactment even to the extent that it has been modified by schedule 2.