

# CONSUMER SCOTLAND ACT 2020

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## EXPLANATORY NOTES

### THE ACT

#### *Overview*

#### **Part 2**

#### **Consumer interests**

##### ***Section 21 – Duty to have regard to consumer interests***

50. Section 21 places a duty on relevant public authorities, when making decisions of a strategic nature, to consider the impact on consumers in Scotland, and the desirability of reducing harm to consumers in Scotland.
51. This duty does not oblige any public authorities subject to it to give consumer interests more weight than any other consideration and does not preclude such a public authority from ultimately taking decisions that have an adverse impact upon consumers in Scotland, but it does require that authority to have regard to the impact on consumers in Scotland and the desirability of reducing harm to them.
52. The Scottish Ministers will, through regulations, set out which persons will be subject to the duty. It should be noted that the term “person” is defined widely in schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010 to include “a body of persons corporate or unincorporated and a partnership constituted under the law of Scotland”.
53. These regulations may also specify whether a person is subject to the duty when carrying out all of its functions, or only specified functions. Before making regulations, the Scottish Ministers must consult such persons as they consider appropriate. This consultation must always include any person whom they intend to designate as a relevant public authority who is not currently so designated.

##### ***Section 22 – Guidance about section 21 duty***

54. This section states that Consumer Scotland may issue guidance relating to the duty under section 21, subject to the approval of the Scottish Ministers. Relevant authorities are required to have regard to any guidance issued.
55. Guidance can be general or targeted at particular relevant public authorities only. Consumer Scotland must consult all relevant public authorities to whom the guidance is addressed prior to the publication of initial, or amended, guidance, as well as anyone else whom they consider it appropriate to consult. Consumer Scotland is also required to make any guidance publicly available.

***Section 23 – Reporting on section 21 duty***

56. Section 23 requires relevant public authorities to produce information about how they have complied with the consumer duty. In doing so, they may determine the timing and frequency of the report by choosing their own reporting period, but this cannot exceed 12 months.
57. It is up to an individual relevant public authority to determine how it publishes this information. It is envisaged that in most cases, publication will be in an authority's annual report and so that is mentioned in subsection (2)(a)(ii) by way of example. The information must be published within 12 months of the end of the reporting period in question. There is also the ability to exclude relevant public authorities from this obligation under the regulations in which they are specified.