

Draft Order laid before the Scottish Parliament under section 72(2)(b) of the Freedom of Information (Scotland) Act 2002, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2013 No.

FREEDOM OF INFORMATION

**The Freedom of Information (Scotland) Act 2002 (Designation
of Persons as Scottish Public Authorities) Order 2013**

Made - - - -

Coming into force - - *1st April 2014*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 5(1) of the Freedom of Information (Scotland) Act 2002⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 5(5) of that Act⁽²⁾, they have consulted every person to whom the Order relates or persons appearing to them to represent such persons and such other persons as they considered appropriate.

In accordance with section 72(2)(b) of that Act⁽³⁾, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2013.

(2) This Order comes into force on 1st April 2014.

(3) In this Order, “the 2002 Act” means the Freedom of Information (Scotland) Act 2002.

Designation of persons as Scottish public authorities

2. A person described in column 1 of the table in the Schedule to this Order, being a person mentioned in section 5(2)(a) of the 2002 Act, is designated as a Scottish public authority in relation to any function of a public nature exercised by it specified in column 2 of that table.

(1) 2002 asp 13.

(2) Section 5(5) was amended by the Freedom of Information (Amendment) (Scotland) Act 2013 (asp 2), section 1(1).

(3) Section 72(2)(b) has been modified by paragraph 5(2) of schedule 3 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2013 No. 278

St Andrew's House,
Edinburgh
Date

Name
A member of the Scottish Government

SCHEDULE

Article 2

DESIGNATION OF PERSONS AS SCOTTISH PUBLIC AUTHORITY

<i>Column 1</i>	<i>Column 2</i>
<i>Description of person</i>	<i>Functions of a public nature</i>
A body—	Functions contained in—
(a) established or created solely by one or more local authorities;	sections 90 and 163 of the Local Government (Scotland) Act 1973(4);
(b) whose functions on behalf of any of those authorities include developing and/or delivering recreational, sporting, cultural or social facilities and activities; and	section 14 of the Local Government and Planning (Scotland) Act 1982(5);
(c) which in carrying out those functions is financed wholly or in part by any of those authorities.	section 20 of the Local Government in Scotland Act 2003(6).

EXPLANATORY NOTE*(This note is not part of the Order)*

This Order makes provision for the designation of persons as a Scottish public authority under section 5 of the Freedom of Information (Scotland) 2002 Act (“the 2002 Act”).

Section 5 of the 2002 Act enables the Scottish Ministers by order to designate as a Scottish public authority any person who is neither listed in schedule 1 to the 2002 Act (nor capable of being added to that schedule under section 4(1)) and is neither a public body nor the holder of a public office. The persons designated include those who appear to the Scottish Ministers to exercise functions of a public nature.

Article 2 designates as a Scottish public authority a person who appears to the Scottish Ministers to exercise a function of a public nature under section 5(2)(a) of the 2002 Act in accordance with the descriptions set out in the table in the Schedule. These persons are bodies established or created by one or more local authorities, whose functions include developing and/or delivering recreational, sporting, cultural or social facilities and activities and who are financed wholly or in part by any of the local authorities. The relevant functions to which the designation applies (see section 7 of the 2002 Act) are carrying tourism related activities, provision of public libraries, museums and art galleries, recreational, sporting, cultural and social facilities and activities and advancing well-being.

(4) 1973 c.65. Section 90 was substituted by section 176 of the Local Government (Scotland) Act 1994 (c.39) and amended by the Tourist Board (Scotland) Act 2006 (asp 15), schedule 2, paragraph 2. Section 163 was amended by the Local Government etc. (Scotland) Act 1994 (c.39), section 180 and Schedule 13, paragraph 92(50) and Schedule 14.

(5) 1982 c.43. The function of ensuring that there is adequate provision of facilities for the inhabitants of their area for recreational, sporting, cultural and social activities was transferred to local authorities by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 128(3)(a).

(6) 2003 asp 1.