

POLICY NOTE

THE ILF SCOTLAND (MISCELLANEOUS LISTINGS) ORDER 2018

SSI 2018/214

The above instrument was made in exercise of the powers conferred by section 4(1)(a) of the Freedom of Information (Scotland) Act 2002 (“2002 Act”), section 3(2)(a) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (“2003 Act”), section 151(3) of the Equality Act 2010 (“2010 Act”), section 2(2)(a) of the Public Records (Scotland) Act 2011 (“2011 Act”) and sections 3(2)(a), 44(2)(a) and 56(2)(a) of the Children and Young People (Scotland) Act 2014 (“2014 Act”). The instrument is subject to affirmative procedure.

Policy Objectives

The UK Government closed the UK Independent Living Fund (ILF) on 30 June 2015. Scottish Ministers announced their commitment to a new Scottish ILF to safeguard the rights of society’s most severely disabled people to live independent lives and to ensure the fund’s long term future.

On 1 July 2015, Independent Living Fund Scotland (ILF Scotland) was established by Ministers, as a Company limited by guarantee, to administer Independent Living Fund (ILF) financial support packages for disabled people in Scotland. All existing Scottish users of ILF transferred to ILF Scotland from this date. The approach taken to the establishment of ILF Scotland was to meet the tight time frame for delivery and to ensure that payments were protected. At the time of establishment there was insufficient time to list ILF Scotland in various pieces of legislation as a public body.

The purpose of this instrument is to list ILF Scotland in:

- Part 7 of schedule 1 of the 2002 Act;
- schedule 2 of the 2003 Act;
- Part 3 of schedule 19 of the 2010 Act;
- the schedule of the 2011 Act; and
- schedules 1, 3 and 4 of the 2014 Act.

Listing ILF Scotland in the above Acts will meet the following policy objectives:

2002 Act: Part 7 of schedule 1 of the 2002 Act lists “Scottish public authorities” for the purposes of that Act. Although ILF Scotland is already bound by the 2002 Act, by listing ILF Scotland in this schedule, they will be subject to the duties relating to climate change contained in Part 4 of the Climate Change (Scotland) Act 2009.

2003 Act: schedule 2 of the 2003 Act lists “specified authorities” for the purposes of that Act. The purpose of listing ILF Scotland is to regulate appointments made by the Scottish Ministers to ILF Scotland by requiring the Scottish Ministers to comply with the Code of Practice for Ministerial Appointments to Public Bodies in Scotland.

2010 Act: listing ILF Scotland in Part 3 of schedule 19 of the 2010 Act will add them to the list of Scottish public authorities required to comply with the public sector equality duty.

2011 Act: the schedule of the 2011 Act lists the authorities to which Part 1 of that Act (records management plans) applies. ILF Scotland will require to manage its public records in accordance with a records management plan which has been agreed by the Keeper of the Records of Scotland.

2014 Act: listing in schedule 1 will subject ILF Scotland to the duties of public authorities in relation to the UNCRC, listing in schedule 3 means that ILF Scotland becomes a listed authority for the purposes of Part 5 of the 2014 Act (Child's Plan), and by being listed in schedule 4, ILF Scotland becomes a corporate parent.

Consultation

To comply with the requirements of section 152(3) of the 2010 Act the Scottish Ministers have consulted the Commission for Equality and Human Rights. The Commission for Equality and Human Rights supports the proposed listing of ILF Scotland in Part 3 of schedule 19 of the 2010 Act.

Officials have also consulted with ILF Scotland and with the appropriate policy officials within Scottish Government. Both support the proposed listings.

Impact Assessments

No Privacy Impact Assessment (PIA) was required for this instrument because there is no change in how personal data is managed as a result of it.

An Equality Impact Assessment (EQIA) has not been completed as the policy approach to impose duties as a public body is consistent with the current ILF UK policies, which have already previously been impact assessed, with no identified negative impact.

In assessing the Children Rights and Wellbeing Impact Assessment (CRWIA) requirements, officials have concluded that the legislative proposals are largely procedural and administrative, they are part of a decision making process that will affect ILF Scotland only and as such that they have been deemed to have no effect, either direct or indirect on Child Rights and Wellbeing.

Due to the technical aspect of this instrument there is no requirement for a Strategic Environmental Assessment.

Financial Effects

A Business Regulatory Impact Assessment (BRIA) has not been completed in relation to this instrument. The Minister for Health and Sport confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Directorate for Health and Social Care Integration
May 2018