

# PROTECTION OF FREEDOMS ACT 2012

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## EXPLANATORY NOTES

### THE ACT

#### *Commentary on Sections*

#### **Part 6: Freedom of information and data protection**

#### ***Section 103: Meaning of “publicly-owned company”***

405. This section amends section 6 of the FOIA to widen the definition of “publicly-owned company”.
406. *Subsection (2)* amends section 6(1) of the FOIA to provide that, as well as companies wholly owned by the Crown, any government department or a single public authority, those wholly owned by one or more bodies from the wider public sector or owned by any such body or bodies in conjunction with the Crown or government departments are also subject to the FOIA. Currently section 6(1) of the FOIA only applies to bodies wholly owned by the Crown, any government department or another single public authority.
407. *Subsection (3)* replaces the current section 6(2) of the FOIA to define when a company is owned by the Crown, the wider public sector, or a combination of both. For a company to be wholly owned by the Crown every member must be a Minister of the Crown, a government department or a company owned by the Crown; or a person acting on behalf of any of these. For a company to be wholly owned by the wider public sector every member must be a relevant public authority or company wholly owned by the wider public sector; or a person acting on behalf of either. For a company to be wholly owned by the Crown and wider public sector at least one member must be a Minister of the Crown, a government department, a company wholly owned by the Crown, or a person acting on behalf of one of these; at least one member must be a relevant public authority, a company wholly owned by the wider public sector, or a person acting on behalf of one of these; and all of its members must fall within these two categories. This has the effect that companies wholly owned by the Crown (including government departments) or any combination of public authorities listed in Schedule 1 to the FOIA (subject to *subsection (4)*) are subject to its provisions, as are companies owned by the Crown and any combination of relevant public authorities. Examples of bodies to which the FOIA will be extended include waste disposal companies and purchasing organisations wholly owned by a number of local authorities.
408. *Subsection (4)* amends section 6(3) of the FOIA to define “relevant public authority”. All public authorities listed in Schedule 1 to the FOIA are relevant public authorities except those listed only in relation to particular information. Companies owned entirely or in part by public authorities listed only in relation to particular information are not publicly-owned companies for FOIA purposes. Government departments are excluded from the definition of a relevant public authority on account of their being part of the Crown.