



Community Empowerment (Scotland) Act 2015

2015 asp 6

PART 3

PARTICIPATION REQUESTS

Key definitions

19 Meaning of “community-controlled body”

In this Part, a “community-controlled body” means a body (whether corporate or unincorporated) having a written constitution that includes the following—

- (a) a definition of the community to which the body relates,
- (b) provision that the majority of the members of the body is to consist of members of that community,
- (c) provision that the members of the body who consist of members of that community have control of the body,
- (d) provision that membership of the body is open to any member of that community,
- (e) a statement of the body’s aims and purposes, including the promotion of a benefit for that community, and
- (f) provision that any surplus funds or assets of the body are to be applied for the benefit of that community.

20 Meaning of “community participation body”

(1) In this Part, “community participation body” means—

- (a) a community-controlled body,
- (b) a community council established in accordance with Part 4 of the Local Government (Scotland) Act 1973,
- (c) a body mentioned in subsection (2), or
- (d) a group mentioned in subsection (4).

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- (2) The body is a body (whether corporate or unincorporated)—
 - (a) that is designated as a community participation body by an order made by the Scottish Ministers for the purposes of this Part, or
 - (b) that falls within a class of bodies designated as community participation bodies by such an order for the purposes of this Part.
- (3) Where the power to make an order under subsection (2)(a) is exercised in relation to a trust, the community participation body is to be the trustees of the trust.
- (4) The group is a group—
 - (a) that comprises a number of individuals who are members of the group,
 - (b) that has no written constitution,
 - (c) that relates to a particular community,
 - (d) membership of which is open to any member of that community,
 - (e) whose decisions are made or otherwise controlled by members of the group who are members of that community, and
 - (f) any surplus funds and assets of which are to be applied for the benefit of that community.

21 Meaning of “public service authority”

- (1) In this Part, “public service authority” means—
 - (a) a person listed, or of a description listed, in schedule 2, or
 - (b) a person mentioned in subsection (3).
- (2) The Scottish Ministers may by order modify schedule 2 so as to—
 - (a) remove an entry listed in it,
 - (b) amend an entry listed in it.
- (3) The person is a person—
 - (a) that is designated as a public service authority by an order made by the Scottish Ministers for the purposes of this Part, or
 - (b) that falls within a class of persons designated as public service authorities by such an order for the purposes of this Part.
- (4) An order under subsection (3) may designate a person, or class of persons, only if the person, or (as the case may be) each of the persons falling within the class, is—
 - (a) a part of the Scottish Administration,
 - (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998), or
 - (c) a publicly-owned company.
- (5) In subsection (4)(c), “publicly-owned company” means a company that is wholly owned by one or more public service authorities.
- (6) For that purpose, a company is wholly owned by one or more public service authorities if it has no members other than—
 - (a) the public service authority or (as the case may be) authorities,
 - (b) other companies that are wholly owned by the public service authority or (as the case may be) authorities, or
 - (c) persons acting on behalf of—

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- (i) the public service authority or (as the case may be) authorities, or
 - (ii) such other companies.
- (7) In this section, “company” includes any body corporate.
- (8) Subsection (9) applies where the Scottish Ministers make an order under subsection (3).
- (9) The Scottish Ministers may specify in the order a public service that is or may be provided by or on behalf of the person designated, or (as the case may be) a person falling within the class designated, in respect of which a specified outcome may not be specified in a participation request.