

## SCHEDULE 2

### Public bodies

#### SECTION 3

##### *Public bodies: government and local authority decisions*

#### **Government and local authority decisions**

**10.**—(1) Except in relation to the Treasury and Her Majesty’s Revenue and Customs, the Secretary of State may make a government decision in relation to a government department.

(2) The Treasury may make a government decision in relation to the Treasury.

(3) Her Majesty’s Revenue and Customs may make a government decision in relation to Her Majesty’s Revenue and Customs.

(4) Where—

(a) the Secretary of State, the Treasury or Her Majesty’s Revenue and Customs intend to make a government decision described in paragraph 14(2)(a) in relation to a public authority described in Part VI of Schedule 1 to the 2000 Act; and

(b) that authority exercises functions partly other than in England,

the Secretary of State, the Treasury or Her Majesty’s Revenue and Customs must consult, as applicable, the Scottish Ministers, the Welsh Ministers or the relevant Northern Ireland department before making the decision.

(5) The Secretary of State, the Treasury or Her Majesty’s Revenue and Customs must not make a government decision in relation to a public body which exercises functions wholly in Scotland, Wales or Northern Ireland.

(6) A local authority decision may be made by—

(a) the Secretary of State in relation to a local government public body or a local government group in England;

(b) the Welsh Ministers in relation to a local government public body or a local government group in Wales.

(7) A government decision—

(a) must not be made such that a public body, on its own or part of a group—

(i) which is a participant, is no longer a participant;

(ii) which is required to be a participant, is no longer required to be a participant;

(b) may be made for the better administration of the scheme.

#### **The Scottish Ministers**

**11.**—(1) The Scottish Ministers may make a government decision as if reference in paragraph 14(2) to “a government department” were a reference to the Scottish Ministers.

(2) The Scottish Ministers may make a government decision described in paragraph 14(2)(a) only in respect of the public bodies described in the following paragraphs of this Schedule—

(a) paragraph 2(2)(b);

(b) paragraph 3 where the majority member is a body described in paragraph 2(2)(b).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

### **The Welsh Assembly Government and Welsh Ministers**

**12.**—(1) The Welsh Ministers may make a government decision as if reference in paragraph 14(2) to “a government department” were a reference to the Welsh Assembly Government.

(2) The Welsh Ministers must not make a government decision under paragraph 14(2)(a) unless the public body exercises functions in or as regards Wales and—

- (a) those functions are exercised in relation to matters within the legislative competence of the National Assembly for Wales; or
- (b) functions are exercisable in relation to that body by the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.

### **Northern Ireland departments**

**13.**—(1) The relevant Northern Ireland department may make a government decision as if reference in paragraph 14(2) to “a government department” were a reference to a relevant department.

(2) The relevant Northern Ireland department must not make a government decision under paragraph 14(2)(a) unless the Northern Ireland Assembly has legislative competence in respect of the functions of the public body.

### **Government decisions**

**14.**—(1) “A government decision” means any decision described in sub-paragraph (2) in relation to—

- (a) qualification for a phase; or
  - (b) participation during a phase or any part of a phase.
- (2) The decisions referred to in sub-paragraph (1) are—
- (a) that a public body (which is not a government department) is or is not a member of a group together with the department;
  - (b) that any part of a government department as described in the decision must register as a participant separately from the remainder of the department;
  - (c) subject to paragraph 15(2), that a government department is a member of a group with another government department;
  - (d) under paragraph 13 only and where the Education and Skills Authority referred to in paragraph 9(3) has been established, that—
    - (i) paragraph 9(2) does not apply to a grant-aided school referred to in sub-paragraph (1) of that paragraph; and
    - (ii) such a school is a member of a group with the Authority.

### **Government decisions: supplies and departments**

**15.**—(1) A government decision under paragraph 14(2)(b) must state—

- (a) which supplies of electricity or gas are supplied to which part of the department for the phase;
- (b) where a public body is a member of a group with the department, with which part of the department it is a group member.

(2) A government decision under paragraph 14(2)(c) must only be made in respect of a department which, had it been subject to article 17 on qualification for the phase, would not have been required to register as a participant.

### **Local authority decisions**

**16.**—(1) In paragraph 10(6), a “local authority decision” means a decision described in sub-paragraph (2) in relation to qualification for a phase in respect of—

- (a) a public body (“a local government public body”) which is—
  - (i) in England, a public authority described in any of paragraphs 7(a) and 8 to 11 of Part II (local government) of Schedule 1 to the 2000 Act; or
  - (ii) in Wales, a public authority described in paragraph 7(b) of that Part;

or

- (b) where the local government public body is a member of a group under section 2 of this Schedule (“the local government group”), such a group.

(2) A decision referred to in sub-paragraph (1) means that a local government public body or group is a public body to which article 14(1)(e) applies.

(3) Where such a decision is made, the decision may also provide—

- (a) that the body or group is a member of a group with another public body required to register as a participant;
- (b) where applicable, that the decision only applies to the local government public body and not any other member of the local government group.

(4) Where a decision is made under sub-paragraph (3)(b)—

- (a) the local government group ceases to exist; and
- (b) other members of the group are separate public bodies.

### **Notification of government and local authority decisions**

**17.**—(1) The administrator must be notified in writing of the application for registration as a participant in respect of—

- (a) a government decision in relation to qualification for a phase;
- (b) a local authority decision.

(2) A government decision in relation to participation during a phase or any part of a phase must be notified in writing as soon as possible to the administrator.

(3) A notification required under sub-paragraph (1) or (2) must—

- (a) state the period for which the decision has effect, which may commence before the date of the notification but must not commence in a phase which has completed; and
- (b) identify the public bodies affected.

(4) A government decision or local authority decision may be varied or revoked in writing.