

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

2019 No.

FREEDOM OF INFORMATION

**The Freedom of Information (Scotland) Act 2002 (Designation
of Persons as Scottish Public Authorities) Order 2019**

Made - - - - 2019
Coming into force - - 11th November 2019

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(a) and all other powers enabling them to do so.

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

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

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 2019 and comes into force on 11 November 2019.

(2) In this Order, “the 2010 Act” means the Housing (Scotland) Act 2010(b).

(a) 2002 asp 13. Section 5(5) was substituted by section 1(1) of the Freedom of Information (Amendment) (Scotland) Act 2013 (asp 2).
(b) 2010 asp 17.

Extension of coverage of the Freedom of Information (Scotland) Act 2002

2. The persons described in column 1 of the table in the schedule of this Order are designated under section 5(2)(a) of the Freedom of Information (Scotland) Act 2002 as a Scottish public authority in relation to the functions specified in column 2 of that table.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

SCHEDULE

Article 2(1)

<i>Column 1</i> <i>Description of persons</i>	<i>Column 2</i> <i>Functions</i>
<p>A registered social landlord as defined in section 165 of the 2010 Act^(a) and a connected body under section 164(c) of that Act.</p>	<p>Any activity in relation to housing services as defined in section 165 of the 2010 Act, subject to the following—</p> <ul style="list-style-type: none"> (a) paragraph (b) is limited to the management of housing accommodation for which a registered social landlord has, under the Housing (Scotland) Act 2001^(b), granted a Scottish secure tenancy as defined in section 11 or a short Scottish secure tenancy as defined in section 34 of that Act, and (b) omit paragraph (c). <p>The supply of information to the Scottish Housing Regulator^(c) by a registered social landlord or a connected body in relation to its financial well-being and standards of governance.</p>

(a) Section 165 was amended by section 98(4) of the Housing (Scotland) Act 2014 (asp 14), paragraph 41 of schedule 3 of the Bankruptcy and Debt Advice (Scotland) Act 2014 (asp 11) and paragraph 27 of schedule 8 of the Bankruptcy (Scotland) Act 2016 (asp 21).

(b) 2001 asp 10.

(c) The Scottish Housing Regulator was established by section 1 of the Housing (Scotland) Act 2010.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the extension of coverage of the Freedom of Information (Scotland) 2002 Act (“the 2002 Act”) under section 5 of that Act.

Section 5 of the 2002 Act enables the Scottish Ministers to designate as Scottish public authorities by order any person who is neither listed in schedule 1 of the 2002 Act (nor capable of being added to that schedule by an order under section 4(1)), is neither a public body nor the holder of a public office, and who appears to the Scottish Ministers to exercise functions of a public nature or is providing, under contract to a Scottish public authority, any service whose provision is a function of that authority.

Article 2(1) designates registered social landlords and certain connected bodies as persons who appear to the Scottish Ministers to exercise functions of a public nature under section 5(2)(a) of the 2002 Act in accordance with the descriptions and functions set out in the table in the schedule.

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