

POLICY NOTE

THE CONSUMER SCOTLAND ACT 2020 (RELEVANT PUBLIC AUTHORITIES) REGULATIONS 2024

SSI 2024/xxx

Summary Box

This Scottish Statutory Instrument (SSI) is to be made in exercise of the power in section 21 (2) of the Consumer Scotland Act 2020 which states that :

“For the purposes of this section and sections 22 and 23, "relevant public authority" means a person with functions of a public nature who is specified (by name or description) in regulations specified by the Scottish ministers.”

Policy Objectives

Part 2 of the Consumer Scotland Act 2020 established a Consumer Duty (the Duty) on public authorities to improve the extent to which consumers are considered in strategic policy and decision-making.

The purpose of the SSI is to set out a list of Scottish public authorities to be made subject to the Duty. This is required to ensure that public authorities are aware of this Duty and that it is being placed upon them.

The Duty will come into force on 1 April 2024 followed by an implementation period of one year ending on 31 March 2025.

Consultation and Engagement

A Consultation on a Consumer Duty for Public Bodies ran from 3 September 2021 until 26 November 2021 seeking views on the public authorities the Duty should apply to. Overall, there was broad support for the Duty to apply to all public authorities.

The consultation document can be found here: A Consultation on a Consumer Duty for Public Bodies - Scottish Government - Citizen Space¹

An analysis of responses to the consultation can be found here: Consumer duty for public bodies: consultation analysis - gov.scot (www.gov.scot)²

¹ <https://consult.gov.scot/energy-and-climate-change-directorate/consumer-duty-for-public-bodies/>

² <https://www.gov.scot/publications/consultation-consumer-duty-public-bodies-analysis-consultation-responses/>

Public Authorities

The Consumer Duty for Public Bodies consultation listed Scottish public authorities to be bound by the Duty. Due to feedback received from this consultation, and additional stakeholder engagement, the final list differs from that what was in this consultation. All public authorities who the Duty will apply to have been consulted over the Summer and Autumn of 2023.

Additionally, since the introduction of the Consumer Scotland Act in 2020, six new Scottish public authorities have been established and detailed engagement has been held on an individual basis with representatives from each organisation to discuss the importance of the Consumer Duty.

The full list of Scottish public authorities which have to adhere to this Duty are listed at **Annex A**.

Definition of Consumer

The definition of consumer which will be used for the purposes of the SSI is that which is provided in the Consumer Scotland Act 2020³

Meaning of “consumer”⁴

(1) In this Act, “consumer” means—

(a) an individual—

(i) who purchases, uses or receives, in Scotland, goods or services which are supplied in the course of a business carried on by the person supplying them, and
(ii) who is not purchasing, using or receiving the goods or services wholly or mainly in the course of a business carried on by the individual, or

(b) a business (including a business carried on by an individual)—

(i) which is no larger than a small business, and

(ii) which purchases, uses or receives, in Scotland, goods or services which are supplied in the course of a business carried on by the person supplying them.

Strategic Decision Making

When implementing the Duty, all relevant public authorities must have regard to the impact of strategic decisions on consumers in Scotland and the desirability of reducing harm to them. This should be done in a proportionate manner aligned to the impact that the decision has upon consumers.

It will be for each individual Scottish public authority to determine if a decision is of a strategic nature. However, it is expected that this type of decision will be made at an executive or board level rather than operational day-to-day decision making.

³ <https://www.legislation.gov.uk/asp/2020/11/contents>

⁴ <https://www.legislation.gov.uk/asp/2020/11/part/3>

Future Public Bodies

This SSI will be reviewed every two years to ensure that any new relevant Scottish public authorities will be consulted with, and then potentially listed, as an authority expected to adhere to the Consumer Duty.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Impact Assessments

The full range of impact assessments were considered and completed where necessary for the Consumer Scotland Act 2020. There will be no changes required to any of these impact assessments in relation to the implementation of the Consumer Duty.

Information Commissioner

As there will be no processing of personal data, it is not necessary to inform the Information Commissioner.

Financial Effects

A financial memorandum⁵ was carried out as part of the introduction of the Consumer Scotland Act in relation to the establishment of Consumer Scotland. Additionally, a Business and Regulatory Impact Assessment⁶ was also carried out at the same time. As this Consumer Duty has no significant financial effects on the Scottish Government, or public authorities in Scotland who have to adhere to the Duty, it is not necessary to update this BRIA.

Consumer Policy Team
December 2023

⁵ <https://www.parliament.scot/-/media/files/legislation/bills/s5-bills/consumer-scotland-bill/introduced/financial-memorandum-consumer-scotland-bill.pdf>

⁶ <https://www.gov.scot/publications/business-regulatory-impact-assessment-consumer-scotland-bill/>

List of Public Authorities covered by Consumer Duty

Ministers

The Scottish Ministers

Executive Agencies

Accountant in Bankruptcy
Disclosure Scotland
Education Scotland
Forestry and Land Scotland
Scottish Forestry
Scottish Prison Service
Scottish Public Pensions Agency
Social Security Scotland
Student Awards Agency Scotland
Transport Scotland

Local Authorities

Aberdeen City Council
Aberdeenshire Council
Angus Council
Argyll and Bute Council
Clackmannanshire Council
Comhairle nan Eilean Siar
Dumfries and Galloway Council
Dundee City Council
East Ayrshire Council
East Dunbartonshire Council
East Lothian Council
East Renfrewshire Council
Edinburgh (City of) Council
Falkirk Council
Fife Council
Glasgow City Council
Highland Council
Inverclyde Council
Midlothian Council
Moray Council
North Ayrshire Council
North Lanarkshire Council
Orkney Islands Council
Perth and Kinross Council
Renfrewshire Council
Scottish Borders Council
Shetland Islands Council
South Ayrshire Council
South Lanarkshire Council
Stirling Council

West Dunbartonshire Council
West Lothian Council

Executive Non-Departmental Public Bodies

Accounts Commission for Scotland
Architecture and Design Scotland
Bòrd na Gàidhlig
Cairngorms National Park Authority
Care Inspectorate
Children's Hearings Scotland
Community Justice Scotland
Creative Scotland
Crofting Commission
David MacBrayne Ltd
Ferguson Marine (Port Glasgow) Holdings Ltd
Highlands and Islands Airports Ltd
Highlands and Islands Enterprise
Historic Environment Scotland
Independent Living Fund Scotland
The Loch Lomond and The Trossachs National Park Authority
National Galleries of Scotland
National Library of Scotland
National Museums of Scotland
Quality Meat Scotland
Risk Management Authority
Royal Botanic Garden, Edinburgh
Scottish Agricultural Wages Board
Scottish Canals
Scottish Children's Reporter Administration
Scottish Criminal Cases Review Commission
Scottish Enterprise
Scottish Environment Protection Agency
Scottish Funding Council
Scottish Futures Trust
Scottish Land Commission
The Scottish Legal Aid Board
Scottish Legal Complaints Commission
Scottish National Investment Bank p.l.c.
Scottish Rail Holdings Ltd.
NatureScot
Scottish Qualifications Authority
Scottish Social Services Council
The Skills Development Scotland Co. Ltd.
Sportscotland
South of Scotland Enterprise Agency
VisitScotland
Water Industry Commission for Scotland
Zero Waste Scotland

Advisory Non-departmental Public Bodies

Judicial Appointments Board for Scotland
Boundaries Scotland
Mobility and Access Committee for Scotland
Poverty and Inequality Commission
Scottish Advisory Committee on Distinction Awards
Scottish Commission on Social Security
Scottish Law Commission
Scottish Fuel Poverty Advisory Panel

Tribunals

Parole Board for Scotland

Public Corporations

Caledonian Maritime Assets Ltd
Glasgow Prestwick Airport
Scottish Water
Crown Estate Scotland

Health Bodies

NHS Ayrshire and Arran
NHS Borders
NHS Dumfries and Galloway
NHS Fife
NHS Forth Valley
NHS Grampian
NHS Greater Glasgow and Clyde
NHS Highland
NHS Lanarkshire
NHS Lothian
NHS Orkney
NHS Shetland
NHS Tayside
NHS Western Isles
The NHS National Services Scotland
NHS Education for Scotland
NHS24
The Scottish Ambulance Service Board
The State Hospitals Board for Scotland
Mental Welfare Commission for Scotland
Healthcare Improvement Scotland
Public Health Scotland
National Waiting Times Centre Board

Integration Authority

Aberdeen City
Aberdeenshire
Angus
Argyll and Bute
Edinburgh City

Clackmannanshire & Stirling
Dumfries and Galloway
Dundee City
East Ayrshire
East Dunbartonshire
East Lothian
East Renfrewshire
Falkirk
Fife
Glasgow City
Highland
Inverclyde
Midlothian
Moray
North Ayrshire
North Lanarkshire
Orkney
Perth & Kinross
Renfrewshire
Scottish Borders
Shetland
South Ayrshire
South Lanarkshire
West Dunbartonshire
West Lothian
Western Isles

Non-Ministerial Offices

Food Standards Scotland
The Office of the Scottish Charity Regulator
Revenue Scotland
Scottish Courts and Tribunal Service
Scottish Housing Regulator
Scottish Fiscal Commission
Consumer Scotland
Environmental Standards Scotland
National Records of Scotland
Registers of Scotland