

## **POLICY NOTE**

### **THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (SCOTTISH PUBLIC AUTHORITIES) AMENDMENT ORDER 2014**

#### **SSI 2014/354**

The above Order was made in exercise of the powers conferred by section 4(1) of the Freedom of Information (Scotland) Act 2002 (“the Act”). That power provides, in section 4(1)(a), that the Scottish Ministers may, by order, add a body or office holder to those listed in Schedule 1 of the Act, so designating it as a “Scottish public authority” for the purposes of the Act. A body or office holder may only be added provided that, as set out in Section 4(1)(a), any such body or office holder is not listed in Schedule 1 and is either a part of the Scottish Administration or a Scottish public authority with mixed functions or no reserved functions (the definition of mixed functions or no reserved functions is in accordance with paragraphs 1(4) and 2 of Part III of Schedule 5 to the Scotland Act 1998). The power also provides, in section 4(1)(b), that the Scottish Ministers may, by order, remove an entry listed in Schedule 1 to the Act. The Order is subject to negative parliamentary procedure, as set out under section 72(2)(a) of the Act.

#### **Policy Objectives**

The Order will insert two bodies – Moredun Research Institute and the James Hutton Institute – within Schedule 1 to the Act so that those bodies will be required to comply with the Act from 1 April 2015. This will mean that anyone could, following that date, submit a request for information to these two bodies and they would have to respond in accordance with the requirements of the Act. The Order will also insert Integration Joint Boards (being a body established by order under section 9(2) of the Public Bodies (Joint Working) (Scotland) Act 2014) within Schedule 1 to the Act requiring compliance with the Act from the date that such bodies are created.

The Order also revises the entry in Schedule 1 to the Act for the Commissioner for Ethical Standards in Public Life in Scotland (CESPLS) to require the authority to comply with the Act in respect of all its functions. The Order also makes two minor technical amendments to the Act by removing The Public Transport Users’ Committee for Scotland and The Scottish Prison Complaints Commission from Schedule 1 of the Act as these bodies no longer exist.

The Scottish Government supports freedom of information, seeing it as an essential part of open, democratic government and responsive public services. It is important that public bodies that meet the legislative criteria for coverage are obliged to operate within the legislative framework of the Act. This will enable the delivery of greater transparency, accountability and engagement, ensuring appropriate accessibility to information from such bodies. It is also important to remove reference to authorities which no longer exist to avoid them remaining liable to comply with the requirements of the Act.

The bodies to be added to Schedule 1 by this Order meet the conditions set out in section 4(a) of the Act – they are not already listed in Schedule 1 and they are Scottish public authorities with no reserved functions. The Act, along with the Environmental Information (Scotland) Regulations 2004, will apply to the bodies added to Schedule 1 as soon as the Order comes into force, or, in respect of Integration Joint Boards, from the date of establishment.

## **Consultation**

The James Hutton and Moredun Research Institutes have been consulted on inclusion and are aware of their obligations and future responsibilities in terms of the Act and associated Regulations. Similarly, the CESPLS has also been consulted on the revised terms of its inclusion. As no Integration Joint Boards have been established it has not been possible to consult these bodies, although Scottish local authorities and NHS Boards, who are currently carrying out the functions which the new Joint Boards will carry out on their behalf, are already subject to the Act and therefore should already be used to handling freedom of information and environmental information requests.

The Scottish Information Commissioner has been consulted on the terms of the Order and will assist the authorities in preparing for compliance with the Act and associated Regulations.

## **Impact Assessments**

An Equalities Impact Assessment has not been completed for this Order as the Order has no particular impact on any equalities groups.

## **Financial Effects**

The Minister for Parliamentary Business confirms that no Business and Regulatory Impact Assessment (BRIA) is necessary as the instrument has no financial effects on the Scottish Government, on local government or on business.

Scottish Government

Strategy and Constitution Directorate  
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