

POLICY NOTE

THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (SCOTTISH PUBLIC AUTHORITIES) AMENDMENT ORDER 2020

SSI 2020/146

The above instrument was made in exercise of the powers conferred by section 4(1) of the Freedom of Information (Scotland) Act 2002. The instrument is subject to negative procedure.

Summary Box

The purpose of this instrument is to make the Scottish Animal Welfare Commission subject to the Freedom of Information (Scotland) Act 2002. This means that requests for information can be made to the Scottish Animal Welfare Commission, and it will have a duty to give the requester information which it holds, unless the information is exempt.

Policy Objectives

The Freedom of Information (Scotland) Act 2002 (“the Act”) came into force on 1 January 2005. The Act encourages the development of a more open culture across the public sector. It does so by providing a statutory right of access to information held by Scottish public authorities (including, for example, the Scottish Ministers, local authorities, health boards, doctors and dental practitioners).

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 meeting the legislative criteria for coverage are obliged to operate within the legislative framework alongside all those already operating in this way. This will enable the continued delivery of greater transparency, accountability and engagement, ensuring appropriate access to information.

In order for a new public body to become subject to the Act, it has to become a “Scottish public authority” for the purposes of the Act. Section 4(1) enables the Scottish Ministers to add bodies to schedule 1 (which lists Scottish public authorities). Bodies may be added to schedule 1 if they are not already listed there, and if the body is either a part of the Scottish Administration or a Scottish public authority with mixed functions or no reserved functions (within the meaning of paragraphs 1(4) and 2 of Part III of Schedule 5 to the Scotland Act 1998).

This instrument therefore adds the Scottish Animal Welfare Commission (“the Commission”) to schedule 1 of the Act. The Commission meets the conditions set out in section 4(1)(a) of the Act, as it is not already listed there, and it is a Scottish public authority with no reserved functions.

Consultation

The Commission is being established on a statutory basis by regulations under section 36 of the Animal Health and Welfare (Scotland) Act 2006 to advise on matters relating to

“protected animals”¹. Functions to advise on matters relating to wildlife will be assigned to the Commission, as it is established in the regulations, by a ministerial declaration under section 23(1)(b) of the Wildlife and Countryside Act 1981. Taken together, the regulations and the declaration will establish the Commission on a permanent basis with all its intended functions.

As the Commission in its permanent form has not yet been established, it has not been possible to consult it on its inclusion in schedule 1 of the Act. However, the secretariat supporting the Commission has been made aware that the Commission is to be included in schedule 1 and will make the Commission aware of its obligations and future responsibilities under the Act.

The Scottish Information Commissioner has been consulted on inclusion of the Commission in schedule 1 of the Act, and will assist the Commission in preparing for compliance with the Act.

Impact Assessments

This instrument has a minimal anticipated impact on children and young people (which is no more significant than the impact on individuals generally) and so a child rights and wellbeing impact assessment is not considered necessary. No positive or negative impact on any of the protected characteristics have been identified as a result of this instrument, and therefore an equalities impact assessment is not required. The policy delivered by the instrument is not strategic in nature, and so a Fairer Scotland duty assessment is not required. The instrument does not have any environmental impacts, and so a strategic environmental assessment is not required.

Financial Effects

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

Scottish Government
Directorate for Constitution and Cabinet

May 2020

¹ See section 17 of the Animal Health and Welfare (Scotland) Act 2006.