

GOVERNMENT RESOURCES AND ACCOUNTS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 17: Public-Private Partnerships – interpretation

83. *Section 17* describes what is meant by “public private partnership business” in section 16 and defines the term “body” for the purpose of that clause.
84. *Subsection (1)* defines “public-private partnership business” as participation in public-private partnerships as an investor or as a consultant or in any other way. The breadth of this definition reflects the variety of forms which public-private partnerships and private finance initiatives may take and the potentially varied ways in which the body may become involved and participate.
85. *Subsection (2)* gives specific examples of what is meant by the carrying on of public-private partnership business. Such business includes the provision of advisory services (for example, on procurement or project management) or financial services (for example, advice on raising finance or on share capital and corporate structures) and such services may be provided in connection with a specific public-private partnership or in connection with such partnerships generally. Under *subsection (2)(a)* the services may be provided to the public or private sectors and by virtue of *subsection (2)(b)* it does not matter whether they are provided on terms or conditions as to payment or consideration or any other matter. This means, for example, that the body may provide services under contract or may act as a joint venture participant. This also makes it clear that the Treasury may under section 16 invest in the body or make other financial provision for it, even though the body receives payments or other resources from carrying on its public-private partnership business.
86. *Subsection (3)* together with *subsections (4)* and *(5)* defines what is meant by “public-private partnerships”. This term also is widely defined to include any projects and undertakings for which the resources are provided by both public bodies and private persons.
87. The meaning of “resources” is explained in *subsection (4)* and includes financial funding and forms of resources and investment other than money such as assets of any description, professional skills and any other kind of commercial resource. This would for example include other facilities or forms of financial resource that may not be included within the term “funds”. The explanation of the term “resources” is non-exhaustive. The reference to projects and undertakings taken with the requirement for resources to be contributed by both public bodies and private persons means that simple purchase contracts, for example, are not envisaged as involving public private partnerships.
88. *Subsection (5)* provides that the term “public body” means, for the purposes of this particular clause, a government department or other body exercising public functions.

*These notes refer to the Government Resources and Accounts
Act 2000 (c.20) which received Royal Assent on 28 July 2000*

89. The effect of *subsection (6)* is that the body in respect of which the Treasury may incur expenditure under section 16, for the purposes of investment or other financial provision, may carry on public-private partnership business outside the United Kingdom.
90. *Subsection (7)* explains the meaning of the references in section 16 to a “body”. This term is defined by subsection (7)(a) to include a group of bodies and so covers a group of companies. Subsection (7)(b) includes a partnership and, for example, a contractual joint venture. Subsection (7)(c) provides for a reference to “body” to include a body which is substantially the same as, or which is a successor to, another body (which may or may not continue to exist). For example, a partnership may be dissolved and a new partnership formed or a company may be incorporated to succeed to the business (including certain rights and liabilities) undertaken by a partnership or contractual joint venture.