This draft Order supersedes the draft of the same title which was laid before the Scottish Parliament on 12th January 2016 and published on 13th January 2016 (ISBN 9780111030547). It is being issued free of charge to all known recipients of that draft Order.

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

2016 No.

FREEDOM OF INFORMATION

The Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2016

Made - - - -	*2016*
Coming into force - -	*2016*

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 they have consulted every person to whom the Order relates or persons appearing to them to represent such persons and such other persons as they considered 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 2016.

(2) This Order comes into force on 1st September 2016.

(3) In this Order, "the 2002 Act" means the Freedom of Information (Scotland) Act 2002.

Extension of coverage of the 2002 Act

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

(**a**) 2002 asp 13 as amended by the Freedom of Information (Amendment) (Scotland) Act 2013 (asp 2).

(2) The persons described in column 1 of the table in Schedule 2 to this Order who provide services under a contract to a Scottish public authority are designated under section 5(2)(b) of the 2002 Act as a Scottish public authority in relation to the services specified in column 2 of that table.

Name
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

SCHEDULE 1

Article 2(1)

Column 1 *Description of persons*	*Column 2* *Functions*
Grant-aided schools.	the running of a grant-aided school as defined in section 135(1) of the Education (Scotland) Act 1980.
Independent special schools listed in the Register of Independent Schools as set out in section 98 of the Education (Scotland) Act 1980(**a**) and which fall within paragraph (a) of the definition of "special school" in section 29(1) of the Education (Additional Support for Learning) (Scotland) Act 2004(**b**)	the running of a special school as defined in section 29(1) of the Education (Additional Support for Learning) (Scotland) Act 2004.
Scottish Health Innovations Limited (registered number SC 236303).	promoting research and development within the National Health Service in Scotland.
Persons providing a "secure accommodation service" as defined in paragraph 6 of schedule 12 to the Public Services Reform (Scotland) Act 2010(**c**).	the provision of a secure accommodation service.

(**a**) 1980 c.44.
(**b**) 2004 asp 4.
(**c**) 2010 asp 8.

SCHEDULE 2

Article 2(2)

Column 1 *Description of persons*	*Column 2* *Services*
A person— (a) providing services under a contract with the Scottish Ministers for the running of a prison or part of a prison in Scotland; or (b) providing services under a subcontract to a contract of the type specified in (a) above.	In relation to persons specified under (a) of Column 1— the provision or running of a prison or a part of a prison in Scotland under section 106(1) of the Criminal Justice and Public Order Act 1994(**a**). In relation to persons specified under (b) of Column 1— the running of a prison or a part of a prison in Scotland under section 106(1) of the Criminal Justice and Public Order Act 1994.

(**a**) 1994 c.33.

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 to the 2002 Act (nor capable of being added to that schedule 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 grant-aided schools, independent special schools, providers of secure accommodation and Scottish Health Innovations Limited as Scottish public authorities for the purpose of the 2002 Act, being persons who appear to the Scottish Ministers to exercise a function or functions of a public nature under section 5(2)(a) of the 2002 Act in accordance with the descriptions set out in the table in Schedule 1.

Article 2(2) designates persons who provide, under a contract with Scottish Ministers, services relating to the provision and running of prisons, which by virtue of section 1 of the Prisons (Scotland) Act 1989 (c.45) is a function of Scottish Ministers. The table in the Schedule sets out the designated bodies with reference to the services being provided.

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