

Human Rights Act 1998 (Meaning of Public Function) Bill

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TO

Clarify the meaning of “public function” in section 6 of the Human Rights Act 1998.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Factors to be taken into account when determining whether function a public function

For the purposes of subsection (3)(b) of section 6 of the Human Rights Act 1998 (c. 42) (acts of public authorities), the factors which must be taken into account in determining whether a function is a function of a public nature include— 5

- (a) the extent to which the state has assumed responsibility for the function in question;
- (b) the role and responsibility of the state in relation to the subject matter in question;
- (c) the nature and extent of the public interest in the function in question; 10
- (d) the nature and extent of any statutory power or duty in relation to the function in question;
- (e) the extent to which the state, directly or indirectly, regulates, supervises or inspects the performance of the function in question;
- (f) the extent to which the state makes payment for the function in question; 15
- (g) whether the function involves or may involve the use of statutory coercive powers;
- (h) the extent of the risk that improper performance of the function might violate an individual's Convention right. 20

2 Performance of public function by private provider

For the avoidance of doubt, for the purposes of section 6(3)(b) of the Human Rights Act 1998, a function of a public nature includes a function which is required or enabled to be performed wholly or partially at public expense, irrespective of— 25

- (a) the legal status of the person who performs the function, or
- (b) whether the person performs the function by reason of a contractual or other agreement or arrangement.

3 Short title, commencement and extent

- (1) This Act may be cited as the Human Rights Act 1998 (Meaning of Public Function) Act 2008. 5
- (2) This Act shall come into force on such day as the Secretary of State shall by order appoint.
- (3) This Act extends to Northern Ireland.

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To clarify the meaning of “public function” in section 6 of the Human Rights Act 1998.

*Ordered to be brought in by Mr Andrew Dismore,
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Mr Virendra Sharma, John Austin,
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*Ordered, by The House of Commons,
to be Printed, 18th December 2007.*

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