

# Human Rights Act 1998 (Meaning of Public Authority) Bill

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**B I L L**

TO

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

**B**E 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 a body is a public authority**

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 carried out by a public authority include—

- (a) the extent to which the state has assumed responsibility for the function in question; 5
- (b) the role and responsibility of the state in relation to the subject matter in question; 10
- (c) the nature and extent of the public interest in the function in question;
- (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; 15
- (f) the extent to which the state makes payment for the function in question;
- (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 Meaning of public authority**

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—

- (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.

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### **3 Short title, commencement and extent**

- (1) This Act may be cited as the Human Rights Act 1998 (Meaning of Public Authority) Act 2010.
- (2) This Act shall come into force on such day as the Secretary of State shall by order appoint.
- (3) This Act has the same extent as the provisions of the Human Rights Act 1998 (c. 42).

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## B I L L

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

*Presented by Mr Andrew Dismore  
supported by  
Ms Karen Buck, Clive Efford,  
John Austin, Mike Gapes,  
Rob Marris, Mr Virendra Sharma,  
Shona McIsaac, Mr Chris Mullin  
and Judy Mallaber.*

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