

## The Peter Cane Prize for Legal Reasoning by an Aspiring Lawyer 2018

The Human Rights Act (HRA) 1998 is described in its introductory text as ‘An Act to give further effect to rights and freedoms guaranteed under the European Convention on Human Rights...’. One part of how the HRA furthers this aim involves an obligation on public authorities to act in a particular way.

### ***Section 6 - Acts of public authorities.***

*(1) It is unlawful for a public authority to act in a way which is incompatible with a Convention right.*

....

*(3) In this section “public authority” includes—*

*(a) a court or tribunal, and*

*(b) any person certain of whose functions are functions of a public nature, but does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament.*

....

*(5) In relation to a particular act, a person is not a public authority by virtue only of subsection (3)(b) if the nature of the act is private.*

....

There is no other provision of the Act that defines what a public authority is. The Act has been in force since 2 October 2000 across the United Kingdom.

Explain what “acts of public authorities” are. You should consider what factors would be relevant to the definition, including consideration of the following four issues:

- 1) What is included and excluded by the term ‘certain of whose functions are functions of a public nature’?
- 2) What is covered by Subsection 6(5)?
- 3) Is subsection 6(5) needed given subsection 6(3)(b)?
- 4) What issues may arise in the application of the section 6 definition of public authority in specific circumstances?

*The questions posed can be answered from the material provided and the application of sufficient thought, but research is welcomed. For example, a vast collection of reports of cases decided by the UK courts is available at [www.bailii.org](http://www.bailii.org), and many local libraries have textbooks on law.*