

# Freedom of Information (Scotland) Act 2002 2002 asp 13

## FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

### PART 1

#### ACCESS TO INFORMATION HELD BY SCOTTISH PUBLIC AUTHORITIES

##### *Right to information*

- 1 General entitlement
- 2 Effect of exemptions
- 3 Scottish public authorities
- 4 Amendment of schedule 1
- 5 Further power to designate Scottish public authorities
- 6 Publicly-owned companies
- 7 Public authorities to which Act has limited application
- 7A Reports on section 5 power
- 8 Requesting information
- 9 Fees
- 10 Time for compliance
- 11 Means of providing information
- 12 Excessive cost of compliance
- 13 Fees for disclosure in certain circumstances
- 14 Vexatious or repeated requests
- 15 Duty to provide advice and assistance

##### *Responses to request*

- 16 Refusal of request
- 17 Notice that information is not held
- 18 Further provision as respects responses to request

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### *Content of certain notices*

#### 19 Content of certain notices

##### *Review of refusal, etc.*

#### 20 Requirement for review of refusal etc.

#### 21 Review by Scottish public authority

##### *Records transferred to the Keeper of the Records of Scotland*

#### 22 Special provisions relating to records transferred to Keeper

##### *Publication schemes*

#### 23 Publication schemes

#### 24 Model publication schemes

## **PART 2**

### EXEMPT INFORMATION

#### 25 Information otherwise accessible

#### 26 Prohibitions on disclosure

#### 27 Information intended for future publication

#### 28 Relations within the United Kingdom

#### 29 Formulation of Scottish Administration policy etc.

#### 30 Prejudice to effective conduct of public affairs

#### 31 National security and defence

#### 32 International relations

#### 33 Commercial interests and the economy

#### 34 Investigations by Scottish public authorities and proceedings arising out of such investigations

#### 35 Law enforcement

#### 36 Confidentiality

#### 37 Court records, etc.

#### 38 Personal information

#### 39 Health, safety and the environment

#### 40 Audit functions

#### 41 Communications with Her Majesty etc. and honours

## **PART 3**

### THE SCOTTISH INFORMATION COMMISSIONER

#### 42 The Scottish Information Commissioner

#### 43 General functions of Commissioner

#### 44 Recommendations as to good practice

#### 45 Confidentiality of information obtained by or furnished to Commissioner

#### 46 Laying and publication of reports

#### 46A Strategic plans

## **PART 4**

### ENFORCEMENT

#### 47 Application for decision by Commissioner

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- 48 When application excluded
- 49 Commissioner’s decision
- 50 Information notices
- 51 Enforcement notices
- 52 Exception from duty to comply with certain notices
- 53 Failure to comply with notice
- 54 Powers of entry and inspection
- 55 No civil right of action against Scottish public authority
- 56 Appeal against notices under Part 4

#### **PART 5**

##### HISTORICAL RECORDS

- 57 The expression “historical record”
- 58 Falling away of exemptions with time
- 59 Power to vary periods mentioned in sections 57 and 58

#### **PART 6**

##### CODES OF PRACTICE

- 60 Code of practice as to functions under this Act
- 61 Code of practice as to the keeping, management and destruction of records

#### **PART 7**

##### MISCELLANEOUS AND SUPPLEMENTAL

- 62 Power to make provision relating to environmental information
- 63 Disclosure of information to Scottish Public Services Ombudsman or to Information Commissioner
- 64 Power to amend or repeal enactments prohibiting disclosure of information
- 65 Offence of altering etc. records with intent to prevent disclosure
- 65A Time limit for proceedings
- 66 Saving for existing powers of disclosure
- 67 Protection from actions for defamation
- 68 Scottish Parliament and Scottish Administration
- 69 Exercise of rights by children
- 70 Amendment of Public Records (Scotland) Act 1937
- 71 Amendment of Scottish Public Services Ombudsman Act 2002
- 72 Orders and regulations
- 73 Interpretation
- 74 Giving of notice etc.
- 75 Commencement
- 76 Short title

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#### SCHEDULE 1 — Scottish Public Authorities

##### Part 1 — MINISTERS, THE PARLIAMENT

- 1 The Scottish Ministers.
- 2 The Scottish Parliament.
- 3 The Scottish Parliamentary Corporate Body.

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Part 2 — NON MINISTERIAL OFFICE HOLDERS IN THE SCOTTISH  
ADMINISTRATION

- 4 The Chief Dental Officer of the Scottish Administration.
- 5 The Chief Medical Officer of the Scottish Administration.
- 6 Her Majesty's Inspectors of Constabulary.
- 7 Her Majesty's Chief Inspector of Prisons for Scotland.
- 7A The Drinking Water Quality Regulator for Scotland
- 7B Food Standards Scotland.
- 8 Her Majesty's Inspector of Anatomy for Scotland.
- 9 Her Majesty's Chief Inspector of the Scottish Fire and Rescue...
- 10 Her Majesty's inspectors of schools (that is to say, the...
- 11 The Keeper of the Records of Scotland.
- 12 The Keeper of the Registers of Scotland.
- 12A The Office of the Scottish Charity Regulator
- 13 A procurator fiscal.
- 14 The Queen's and Lord Treasurer's Remembrancer.
- 15 The Queen's Printer for Scotland.
- 16 The Registrar General of Births, Deaths and Marriages for Scotland....
- 17 The Registrar of Independent Schools in Scotland.
- 18 A rent officer appointed under section 43(3) of the Rent...
- 18A The Scottish Court Service.
- 18AA The Scottish Fiscal Commission
- 18B The Scottish Housing Regulator.
- 19 A social work inspector appointed under section 4 of the...

Part 3 — LOCAL GOVERNMENT

- 20 An assessor appointed under section 27(2) of the Local Government...
- 21 A council constituted by section 2 of that Act.
- 22 A joint board, within the meaning of section 235(1) of...
- 23 A licensing board continued in existence by or established under...
- 24 The Strathclyde Passenger Transport Authority.

Part 4 — THE NATIONAL HEALTH SERVICE

- 25 The Clinical Standards Board for Scotland.
- 26 The Common Services Agency for the Scottish Health Service.
- 27 A Health Board, constituted under section 2 of the National...
- 27A Healthcare Improvement Scotland.
- 28 The Health Education Board for Scotland.
- 29 The Health Technology Board for Scotland.
- 29A The National Waiting Times Centre Board
- 30 A local health council, established under section 7 of the...
- 31 A National Health Service trust.
- 32 NHS 24.
- 32A NHS Education for Scotland
- 32B NHS Health Scotland
- 32C . . . . .
- 33 A person providing primary medical services under a general medical...
- 34 A person providing primary medical services or personal dental services...
- 35 A person providing, in Scotland, piloted services within the meaning...
- 35A Public Health Scotland.
- 36 The Post Qualification Education Board for Health Service Pharmacists in...
- 37 The Scottish Advisory Committee on Distinction Awards.
- 38 The Scottish Advisory Committee on the Medical Workforce.

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- 39 The Scottish Ambulance Service Board.
- 40 The Scottish Council for Post Graduate Medical and Dental Education....
- 41 The Scottish Dental Practice Board.
- 42 The Scottish Health Advisory Service.
- 43 The Scottish Hospital Endowments Research Trust.
- 44 The Scottish Hospital Trust.
- 45 The State Hospitals Board for Scotland.
- 46 The Scottish Medical Practices Committee.
  - Part 5 — EDUCATIONAL INSTITUTIONS
- 47 The board of management of a college of further education...
- 48 A central institution within the meaning of the Education (Scotland)...
- 49 An institution in receipt of funding from the Scottish Further...
  - Part 6 — POLICE
- 50 A chief constable of the Police Service of Scotland.
- 50A The Scottish Police Authority.
- 51 A joint police board constituted by an amalgamation scheme made...
- 52 The Police Advisory Board for Scotland.
- 52A .....
  - Part 7 — OTHERS
- 53 The Accounts Commission for Scotland.
- 54 .....
- 55 .....
- 56 .....
- 57 Audit Scotland.
- 58 The Auditor General for Scotland.
- 59 The Board of Trustees for the National Galleries of Scotland....
- 60 The Board of Trustees of the National Museums of Scotland....
- 61 The Board of Trustees of the Royal Botanic Garden, Edinburgh....  
Bòrd na Gàidhlig
- 61B The British Waterways Board.
- 62 .....
- 62ZZA Children's Hearings Scotland.
- 62ZZA The Commissioner for Ethical Standards in Public Life in Scotland....
- 62ZA The Commissioner for Children and Young People in Scotland
- 62A .....
- 62B .....
- 62ZZC Community Justice Scotland.
- 62ZC The Convener of the School Closure Review Panels.
- 62C Creative Scotland.
- 62D The Criminal Courts Rules Council.
- 63 The Crofters Commission.
- 63A Crown Estate Scotland.
- 64 .....
- 65 .....
- 66 The General Teaching Council for Scotland.
- 66A Her Majesty's Chief Inspector of Prosecution in Scotland
- 67 Highlands and Islands Enterprise.
- 67ZA Historic Environment Scotland.
- 67ZB 67ZB ILF Scotland .
- 67A The Historic Environment Advisory Council for Scotland.
- 67B An integration joint board established by order under section 9(2)...
- 68 .....

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- 68ZA The James Hutton Institute.
- 68A The Judicial Appointments Board for Scotland
- 69 ... A Justice of the Peace Advisory Committee established under...
- 70 Learning and Teaching Scotland.
- 71 The Local Government Boundary Commission for Scotland.
- 71A The Moredun Research Institute.
- 72 The Mental Welfare Commission for Scotland.
- 72A Mobility and Access Committee for Scotland.
- 73 A National Park authority, established by virtue of schedule 1...
- 74 The Parole Board for Scotland.
- 75 A person appointed for Scotland under section 3(1) of the...
- 75ZA .....
- 75A .....
- 75AB The Police Investigations and Review Commissioner.
- 75AC The Poverty and Inequality Commission
- 75B Quality Meat Scotland
- 75C The Risk Management Authority
- 76 .....
- 76A A School Closure Review Panel constituted under section 17A(3) of...
- 77 The Scottish Agricultural Wages Board.
- 77A The Scottish Animal Welfare Commission.
- 78 .....
- 79 .....
- 79A The Scottish Association of Citizens Advice Bureaux, but only in...
- 80 The Scottish Children's Reporter Administration.
- 80AA The Scottish Civil Justice Council.
- 80B The Scottish Commission for Human Rights.
- 80C The Scottish Commission on Social Security.
- 81 .....
- The Scottish Committee on Climate Change
- 82 .....
- 83 The Scottish Criminal Cases Review Commission.
- 84 Scottish Enterprise.
- 85 The Scottish Environment Protection Agency.
- 85ZA The Scottish Fire and Rescue Service.
- 85ZB The Scottish Fuel Poverty Advisory Panel.
- 85A The Scottish Further and Higher Education Funding Council.
- 85B .....
- 86 .....
- 87 .....
- 88 .....
- 89 .....
- 90 The Scottish Information Commissioner.
- 90A The Scottish Land Commission.
- 91 The Scottish Law Commission.
- 92 The Scottish Legal Aid Board.
- 92A The Scottish Legal Complaints Commission.
- 92B The Scottish Local Authorities Remuneration Committee
- 92C The Scottish National Investment Bank p.l.c.
- 93 Scottish Natural Heritage.
- 94 .....
- 95 The Scottish Public Services Ombudsman.
- 96 The Scottish Qualifications Authority.

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- 97 .....
- 98 .....
- 98A The Scottish Sentencing Council.
- 99 The Scottish Social Services Council.
- 100 The Scottish Sports Council.
- 101 .....
- 102 Scottish Water.
- 102A Social Care and Social Work Improvement Scotland.
- 102B South of Scotland Enterprise.
- 103 .....
- 104 The Standards Commission for Scotland.
- 105 The National Library of Scotland .
- 105A VisitScotland.
- 106 The Water Industry Commission for Scotland.

#### SCHEDULE 2 — The Scottish Information Commissioner

- 1 *Status*
- 2 *Pensions, allowances, etc.*
- 3 *Staff*
- 4 *Accountable officer*
- 5 *Accounts*
- 6 *General powers*

#### *Budget*

- 4A (1) The Commissioner must, before the start of each financial...

#### *Location of office*

- 7 The Commissioner must comply with any direction given by the...

#### *Sharing of premises, staff, services and other resources*

- 8 The Commissioner must comply with any direction given by the...

#### *Restrictions on subsequent appointments etc.*

- 9 (1) A person who has ceased being the Commissioner may...

#### SCHEDULE 3 — Powers Of Entry And Inspection

- 1 *Grant of warrants*
- 2 (1) A sheriff must not grant the warrant unless satisfied—...
- 3 *Execution of warrants*
- 4 The warrant must be executed at a reasonable hour, unless...
- 5 (1) If the premises in respect of which the warrant...
- 6 (1) A person seizing anything in pursuance of the warrant...
- 7 *Matters exempt from inspection and seizure*
- 8 (1) Subject to the provisions of this paragraph, the powers...
- 9 If the person in occupation of premises in respect of...
- 10 *Offences*
- 11 *Vessels, vehicles etc.*

#### SCHEDULE 4 — Consequential Amendments To Scottish Public Services Ombudsman Act 2002

- 1 In section 19(8) of the Scottish Public Services Ombudsman Act...

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2 In schedule 5 to that Act (which specifies persons or...

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**Changes and effects yet to be applied to :**

- s. 38(2B) words substituted by [S.I. 2019/419 Sch. 3 para. 22\(2\)](#)
- s. 38(3A)(a) words substituted by [S.I. 2019/419 Sch. 3 para. 22\(2\)](#)
- s. 38(5) words inserted by [S.I. 2019/419 Sch. 3 para. 22\(3\)\(c\)](#)
- s. 38(5) words omitted by [S.I. 2019/419 Sch. 3 para. 22\(3\)\(b\)](#)
- s. 38(5) words substituted by [S.I. 2019/419 Sch. 3 para. 22\(3\)\(a\)](#)
- s. 38(5A) words substituted by [S.I. 2019/419 Sch. 3 para. 22\(4\)](#)
- sch. 1 para. 62A inserted by [2003 asp 4 sch. 4 para. 17\(c\)\(i\)](#)
- Sch. 1 para. 80A inserted by [2007 asp 3 Sch. 5 para. 28](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 5 para. 28 repealed (31.1.2011) by [2010 asp 8](#), sch. 4 Pt. 2; [S.S.I. 2011/30](#), art. 3(1), Sch. 1)
- sch. 1 Pt. 4 para. 30 repealed by [2004 asp 7 sch. 2](#)
- sch. 1 Pt. 4 para. 31 repealed by [2004 asp 7 sch. 2](#)
- sch. 1 para. 71 repealed by [2020 asp 12 Sch. para. 5\(b\)](#)
- sch. 1 Pt. 7 words inserted by [2009 asp 12 sch. 2 para. 5](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- sch. 1 para. 50B inserted by [2016 asp 1 s. 114\(1\)\(a\)](#)
- sch. 1 para. 7ZA inserted by [2020 asp 11 Sch. 2 para. 3](#)
- sch. 1 para. 61AA inserted by [2020 asp 12 Sch. para. 5\(a\)](#)
- sch. 1 para. 79B inserted by [2020 asp 8 sch. 2 para. 2](#)