Status: Point in time view as at 31/10/2003.

Changes to legislation: Freedom of Information (Scotland) Act 2002, Section 50 is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Freedom of Information (Scotland) Act 2002

2002 asp 13

PART 4

ENFORCEMENT

50   Information notices

(1) Where the Commissioner—

    (a)   has received an application under section 47(1); or

    (b)   reasonably requires information—

        (i) for the purpose of determining whether a Scottish public authority has complied or is complying with the provisions of this Act; or

        (ii) for the purpose of determining whether the practice of a Scottish public authority conforms with the code of practice issued under section 60 or 61,

that officer may give the authority notice in writing (referred to in this Act as "an information notice") requiring it, within such time as is specified in the notice, to give the officer, in such form as may be so specified, such information relating to the application, to compliance with this Act or to conformity with the code of practice as is so specified.

(2) An information notice must contain—

    (a)   in a case mentioned in paragraph (a) of subsection (1) a statement that the Commissioner has received an application under section 47(1); or

    (b)   in a case mentioned in paragraph (b) of that subsection, a statement of—

        (i) the purpose mentioned in that paragraph for which that officer regards the specified information as relevant;

        (ii) the officer's reasons for so regarding the information; and

        (iii) the time within which the information is to be given.

(3) An information notice must contain also particulars of the right of appeal conferred by section 56.

(4) The time specified under subsection (2)(b)(iii) in an information notice must not expire before the end of the period within which an appeal may be brought under section 56 against the notice; and, if such an appeal is brought, the information need not be given pending the determination or withdrawal of the appeal.

(5) A Scottish public authority is not obliged by virtue of this section to give the Commissioner information in respect of—

    (a) a communication between professional legal adviser and client in connection with the giving of legal advice to the client with respect to that client's obligations under this Act; or

    (b) a communication between professional legal adviser and client, or between such adviser or client and another person, made in connection with or in contemplation of proceedings under or arising out of this Act and for the purpose of such proceedings.

(6) In subsection (5), references to the client of a professional legal adviser include references to a person representing such client.

(7) Subject to subsection (5), neither—

    (a) an obligation to maintain secrecy; nor

    (b) any other restriction on disclosure,

however arising or imposed, affects the duty to comply with an information notice.

(8) The Commissioner may cancel an information notice by notice in writing given to the authority.

(9) In this section, "information" includes unrecorded information.

Modifications etc. (not altering text)
  C1 S. 50 applied (with modifications) (31.12.2009) by The INSPIRE (Scotland) Regulations 2009 (S.S.I. 2009/440), **reg. 12(2)(d)**, Sch.

Commencement Information
  I1 S. 50 wholly in force at 30.4.2004; s. 50 not in force at Royal Assent see s. 75(1); s. 50 in force for certain purposes at 31.10.2003 by S.S.I. 2003/477, **art. 3(4)**; s. 50 wholly in force at. 30.4.2004 by S.S.I. 2004/203, **art. 3(1)**, Sch.

Status:

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