

SCOTTISH COMMISSION FOR HUMAN RIGHTS ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 2: Inquiries: Supplementary provision as to evidence

100. [Paragraph 1](#) expands upon the ability of the Commission to require a person to give evidence. Where oral evidence is required, the Commission must give notice specifying the time and place the person should attend. In cases where persons are requested to provide documents or other information, the Commission must specify the documents (or type of documents or other information) requested and the date by which they should be produced. In all cases, the Commission is required to inform the person in question of the matters to which the request relates.
101. Any person required to give any form of evidence to the Commission may apply to the sheriff for cancellation of any requirement imposed by the notice. The sheriff may allow this only if he or she is satisfied that the requirement is unnecessary – i.e. it is unconnected to the matter being investigated, undesirable for reasons of national security or considered by the sheriff to be otherwise unreasonable.
102. [Paragraph 3](#) empowers the Commission to administer an oath to any person giving evidence and to require any such person to take an oath.
103. The fourth paragraph allows the Commission, following the service of a notice under paragraph 1, to refer uncooperative or obstructive persons to the Court of Session. The Commission could take this action where a person refuses or fails to comply with any requirement specified in the notice without reasonable excuse including failing to attend at a hearing, where a person refuses to take an oath when so required or to answer questions relevant to the matter at hand, or where a person deliberately destroys, conceals, alters or withholds documents.
104. On hearing any evidence or representations on a report of obstruction, the Court of Session may make such an order for enforcement as it deems necessary or deal with the matter as if it were a contempt of the court.
105. In accordance with paragraph 5, the Commission can pay allowances and expenses to any individual giving information of any kind in response to a notice under paragraph 1, subject to the approval of the Parliamentary corporation.