



Freedom of Information (Scotland) Act 2002

2002 asp 13

PART 3

THE SCOTTISH INFORMATION COMMISSIONER

45 Confidentiality of information obtained by or furnished to Commissioner

- (1) A person who is or has been the Commissioner, a member of the Commissioner's staff or an agent of the Commissioner must not disclose any information which—
- (a) has been obtained by, or furnished to, the Commissioner under or for the purposes of this Act; and
 - (b) is not at the time of the disclosure, and has not previously been, available to the public from another source,
- unless the disclosure is made with lawful authority.
- (2) For the purposes of subsection (1), disclosure is made with lawful authority only if, and to the extent that—
- (a) the disclosure is made with the consent of the person from whom the information was so obtained or by whom it was so furnished;
 - (b) the information was provided for the purpose of its being made available to the public (in whatever manner) under a provision of this Act;
 - (c) the disclosure is made for the purpose of, and is necessary for, the discharge of—
 - (i) a function under this Act; or
 - (ii) a Community obligation;
 - (d) the disclosure is made for the purpose of proceedings, whether criminal or civil and whether arising under, or by virtue of, this Act or otherwise; or
 - (e) either—
 - (i) in a case where the person mentioned in paragraph (a) is a Scottish public authority, had that person received on the day of disclosure a request for the information that person; or

Status: This is the original version (as it was originally enacted).

- (ii) in any other case, had the Commissioner received on that day such a request the Commissioner,
would, by virtue of section 1(1), have been under an obligation to give it.
- (3) A person who knowingly or recklessly discloses information in contravention of subsection (1) is guilty of an offence.
- (4) A person guilty of an offence under subsection (3) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to a fine.