



Freedom of Information (Scotland) Act 2002

2002 asp 13

PART 4

ENFORCEMENT

52 Exception from duty to comply with certain notices

- (1) This section applies to a decision notice or enforcement notice which—
 - (a) is given to the Scottish Administration; and
 - (b) relates to a perceived failure, in respect of one or more requests for information, to comply with section 1(1) in respect of information which, by virtue of section 29, 31(1), 32(1)(b), 34, 36(1) or 41(b), is exempt information.
- (2) A decision notice or enforcement notice to which this section applies ceases to have effect, in so far as it relates to the perceived failure, if, not later than the thirtieth working day following the effective date, the First Minister of the Scottish Executive, after consulting the other members of that Executive, signs and gives the Commissioner a certificate stating that the First Minister has on reasonable grounds formed, after such consultation, the opinion both that—
 - (a) there was no such failure; and
 - (b) the information requested is of exceptional sensitivity.
- (3) The First Minister is, by not later than the tenth working day after such a certificate—
 - (a) is given, to lay a copy of it before the Parliament; and
 - (b) is given in relation to a decision notice, to inform the person to whose application the notice relates of the reasons for the opinion formed,except that the First Minister is not obliged to provide information under paragraph (b) if, or to the extent that, compliance with that paragraph would necessitate the disclosure of exempt information.
- (4) In subsection (2), “the effective date”, in relation to a notice, means—
 - (a) the day on which the notice was given to the Scottish Administration; or
 - (b) where an appeal under section 56 is brought, the day on which the cause is finally determined.

Changes to legislation:

Freedom of Information (Scotland) Act 2002, Section 52 is up to date with all changes known to be in force on or before 18 April 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.

[View outstanding changes](#)

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. 74A inserted by [2023 asp 6 sch. 2 para. 2\(2\)](#)