Scottish Parliamentary Standards Commissioner Act 2002

2002 asp 16

General

13 Power to call for witnesses and documents U.K.

(1) Subject to subsection (2), at each stage of an investigation into a complaint the Commissioner may for the purposes of that investigation require any person, whether in or outside Scotland, who is able, in the opinion of the Commissioner, to give relevant evidence or to produce relevant documents, to do so.

(2) The Commissioner may not impose such a requirement upon any person whom the Parliament could not require, under section 23 of the Scotland Act, to attend its proceedings for the purpose of giving evidence or to produce any documents for the same purposes.

(3) A person is not obliged under this section to answer any question or to produce any document which that person would be entitled to refuse to answer or produce in proceedings in a court in Scotland.

(4) Any statement made by a person in answer to any question which that person was obliged under this section to answer shall not be admissible in any criminal proceedings against that person, except where the proceedings are in respect of perjury relating to that statement.

(5) A Scottish Law Officer or a procurator fiscal is not obliged under this section to answer any question or to produce any document which that officer would be entitled to decline to answer or to produce in accordance with section 27(3) or, as the case may be, section 23(10) of the Scotland Act.

(6) The Commissioner may—

(a) administer an oath to any person giving evidence to the Commissioner; and

(b) require that person to take an oath.

(7) Any person who refuses to take an oath when required to do so under subsection (6)(b) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a period not exceeding three months.

[F1](8) . . . . . .

(9) For the purposes of this section, a person shall be taken to comply with a requirement to produce a document if that person produces a copy of, or an extract of the relevant part of, the document.

Textual Amendments

F1 S. 13(8) repealed (1.4.2011) by Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11), **ss. 29(6)**, 31(5) (with s. 31(6), Sch. 7)

Modifications etc. (not altering text)

C1 S. 13 extended (E.W.N.I.) (1.10.2003) by The Scottish Parliamentary Standards Commissioner Act 2002 (Power to Call for Witnesses and Documents) (England, Wales and Northern Ireland) Order 2003 (S.I. 2003/2278), **art. 2(a)**

14 Witnesses and documents: notice U.K.

(1) A requirement under section 13 shall be imposed by the Commissioner giving the person in question notice in writing specifying—

(a) the time and place at which the person is to attend before the Commissioner and the particular subjects concerning which that person is required to give evidence; or

(b) the documents, or types of documents, which the person is to produce, the date by which that person is to produce them and the particular subjects concerning which they are required.

(2) Such notice shall be given—

(a) in the case of an individual, by sending it, by registered post or the recorded delivery service, addressed to that person at the person's usual or last known address or, where the person has given an address for service, at that address;

(b) in any other case, by sending it, by registered post or the recorded delivery service, addressed to the person at the person's registered or principal office.

Modifications etc. (not altering text)

C2 S. 14 extended (E.W.N.I.) (1.10.2003) by The Scottish Parliamentary Standards Commissioner Act 2002 (Power to Call for Witnesses and Documents) (England, Wales and Northern Ireland) Order 2003 (S.I. 2003/2278), **art. 2(b)**

15 Witnesses and documents: offences S

(1) Any person to whom a notice under section 14(1) has been given who—

(a) refuses or fails to attend before the Commissioner as required by the notice;

(b) refuses or fails, when attending before the Commissioner as required by the notice, to answer any question concerning the subjects specified in the notice;

(c) deliberately alters, suppresses, conceals or destroys any document which that person is required to produce by the notice; or

(d) refuses or fails to produce any such document,

is guilty of an offence.

(2) Subsection (1) is subject to section 13(3) and (5).

(3) It is a defence for a person charged with an offence under subsection (1)(a), (b) or (d) to prove that there was a reasonable excuse for the refusal or failure.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a period not exceeding three months.

(5) Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body corporate; or

(b) any person who was purporting to act in any such capacity,

that person, as well as the body corporate, is guilty of that offence and liable to be proceeded against accordingly.

16 Restriction upon disclosure of information S

(1) Except as permitted by subsection (2), the Commissioner or the staff of, or any other person appointed by, the **[**[F2]Commissioner**]** shall not disclose any information contained in the complaint or any information which is furnished to or obtained by them in the course of, or for the purposes of, an investigation into that complaint.

(2) Such information may be disclosed for the purpose of—

(a) enabling or assisting the Commissioner [F3]... to discharge any functions imposed or conferred upon the Commissioner [F4]... by virtue of any provision in this Act or in any other enactment or in the standing orders, including, in particular, the making of any report to the Parliament; or

(b) the investigation or prosecution of any offence or suspected offence.

Textual Amendments

F2 Word in s. 16(1) substituted (1.7.2013) by The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 2 para. 13(a)** (with Sch. 4 para. 3)

F3 Words in s. 16(2)(a) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 2 para. 13(b)(i)** (with Sch. 4 para. 3)

F4 Words in s. 16(2)(a) omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 2 para. 13(b)(ii)** (with Sch. 4 para. 3)

[F5]17 Protection from actions of defamation S

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Textual Amendments

F5 S. 17 omitted (1.7.2013) by virtue of The Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order 2013 (S.S.I. 2013/197), art. 1, **Sch. 2 para. 14** (with Sch. 4 para. 3)

[F6]18 Annual report S

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Textual Amendments

F6 S. 18 repealed (1.4.2011) by Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11), **ss. 29(6)**, 31(5) (with s. 31(6), Sch. 7)

19 Transitional provision S

(1) The Parliament may direct the Commissioner to undertake an investigation into any complaint which, on the day when this section comes into force, has been received, or is under investigation, by the Parliament.

(2) Any such direction may direct the Commissioner to take into account any information in connection with the complaint which is specified in the direction.

(3) Any such direction may, in relation to a particular complaint, direct the Commissioner to treat that complaint as being admissible and, if so, shall specify the relevant provision or provisions which is or are to be treated as having been identified by the Commissioner for the purposes of the first test.

(4) Subject to any such direction, any complaint which the Commissioner is directed to investigate shall be treated in the same way as any other complaint which is made to the Commissioner.

(5) Subject to any such direction, the provisions of this Act and of any other direction given under this Act shall apply, subject to any necessary modifications, in relation to any investigation and report by virtue of this section as they apply in relation to a complaint made to the Commissioner.

Changes to legislation:
There are currently no known outstanding effects for the Scottish Parliamentary Standards Commissioner Act 2002, Cross Heading: General.