



Freedom of Information (Scotland) Act 2002

2002 asp 13

PART 4

ENFORCEMENT

47 **Application for decision by Commissioner**

- (1) A person who is dissatisfied with—
- (a) a notice given under section 21(5) or (9); or
 - (b) the failure of a Scottish public authority to which a requirement for review was made to give such a notice,
- may make application to the Commissioner for a decision whether, in any respect specified in that application, the request for information to which the requirement relates has been dealt with in accordance with Part 1 of this Act.
- (2) An application under subsection (1) must—
- (a) be in writing or in another form which, by reason of its having some permanency, is capable of being used for subsequent reference (as, for example, a recording made on audio or video tape);
 - (b) state the name of the applicant and an address for correspondence; and
 - (c) specify—
 - (i) the request for information to which the requirement for review relates;
 - (ii) the matter which was specified under sub-paragraph (ii) of section 20(3)(c); and
 - (iii) the matter which gives rise to the dissatisfaction mentioned in subsection (1).
- (3) For the purposes of paragraph (a) of subsection (2) (and without prejudice to the generality of that paragraph), an application under that subsection is treated as made in writing where the text of the application is as mentioned in paragraphs (a) to (c) of section 8(2).

- (4) Subject to subsection (5), an application to the Commissioner under subsection (1) must be made—
 - (a) where the application concerns a matter mentioned in paragraph (a) of subsection (1), before the expiry of six months after the date of receipt by the applicant of the notice complained of; or
 - (b) where the application concerns a matter mentioned in paragraph (b) of that subsection, before the expiry of six months after the period allowed in section 21(1) for complying with a requirement for review has elapsed.
- (5) The Commissioner may consider an application under subsection (1) made after the expiry of the time allowed by subsection (4) for the making of that application if, in the opinion of the Commissioner, it is appropriate to do so.
- (6) The Scottish Ministers may by regulations provide—
 - (a) that a paragraph of subsection (4) is to have effect as if the reference in that paragraph to six months were a reference to such other period of months (being a period of not less than six months) as is specified in (or determined in accordance with) the regulations; and
 - (b) that subsection (5) is to have effect accordingly.
- (7) Regulations under subsection (6) may—
 - (a) prescribe different periods of months in relation to different cases; and
 - (b) confer a discretion on the Commissioner.
- (8) This section is subject to section 48.