

SCHEDULE 6 FUNCTIONING OF PUBLIC BODIES

PART 2

FREEDOM OF INFORMATION

Interpretation

- 2 In this Part (other than this paragraph)—
- (a) references to sections and Parts are to sections and Parts of the Freedom of Information (Scotland) Act 2002, and
 - (b) expressions used in this Part and in that Act have the same meaning as in that Act.

Time periods for responding to requests

- 3 (1) Section 10 (time for compliance) has effect as if modified as follows—
- (a) in subsection (1), for “twentieth” there were substituted “sixtieth”,
 - (b) in subsection (2), in the closing text, for—
 - (i) “twentieth” there were substituted “sixtieth”,
 - (ii) “thirtieth” there were substituted “seventieth”,
 - (c) in subsection (3), in the closing text, for—
 - (i) “twentieth” there were substituted “sixtieth”,
 - (ii) “thirtieth” there were substituted “seventieth”.
- (2) Section 21 (review by Scottish public authority) has effect as if modified as follows—
- (a) in subsection (1), for “twentieth” there were substituted “sixtieth”,
 - (b) in subsection (2), in the closing text, for—
 - (i) “twentieth” there were substituted “sixtieth”, and
 - (ii) “thirtieth” there were substituted “seventieth”.
- 4 The Freedom of Information (Scotland) Act 2002 (Time for Compliance) Regulations 2016 ([S.S.I. 2016/346](#)) have no effect.

Extension of periods in which certain authorities may respond

- 5 (1) This paragraph applies where the Scottish Ministers are of the view that the exercise of the powers conferred by this paragraph will enable Scottish public authorities to better utilise resources to respond to coronavirus.
- (2) The Scottish Ministers may by direction specify circumstances in which a Scottish public authority other than the Scottish Ministers may extend a relevant period.
- (3) A direction under sub-paragraph (2) must specify—
- (a) the maximum period by which the relevant period may be extended, which may not exceed 40 working days,
 - (b) that the Scottish public authority must give the applicant notice of the decision to extend the relevant period promptly and in any event no later than before the relevant period expires, and

Status: This is the original version (as it was originally enacted).

- (c) the contents of the notice to be given under paragraph (b), which must include—
 - (i) the authority’s reasons for extending the period, and
 - (ii) particulars about the right to a requirement for review under section 20(1) or, as the case may be, the right to apply to the Commissioner under section 47(1).
- (4) A direction under sub-paragraph (2) may specify different provision for different purposes and, in particular, different provision in respect of different Scottish public authorities.
- (5) Before giving a direction under sub-paragraph (2), the Scottish Ministers must consult the Commissioner.
- (6) The Scottish Ministers may vary or revoke a direction given under sub-paragraph (2) by giving another direction.
- (7) The Scottish Ministers must—
 - (a) publish a direction given by them under this paragraph in such manner as they consider appropriate, and
 - (b) give a copy of the direction to the Commissioner.
- (8) For the purposes of this paragraph, “relevant period”, in relation to a request for information (or a subsequent requirement for review), means a period specified in section 10(1) or section 21(1) as those periods have effect by virtue of paragraph 3.

Commissioner’s ability to take account of impact of coronavirus

- 6 (1) This paragraph applies in relation to an application made under section 47(1) (which is not excluded by section 48) in respect of which there is a failure of the Scottish public authority to comply with a relevant period.
- (2) Despite section 49(6), the Commissioner may decide that the Scottish public authority has not failed to comply with Part 1 by reason only of its failure to comply with a relevant period if the Commissioner is satisfied that the failure was—
 - (a) due to the effect of coronavirus on the authority generally or its ability to carry out its functions (including any action it had to take to better utilise its resources to deal with the effect of coronavirus), and
 - (b) reasonable in all the circumstances.
- (3) For the purposes of this paragraph, “relevant period”, in relation to a request for information (or a subsequent requirement for review), means a period specified in section 10(1) or section 21(1), either as it has effect by virtue of paragraph 3 or otherwise.

Giving notice electronically

- 7 Section 74(1)(a) (giving of notice etc.) has effect as if modified so that after sub-paragraph (ii) there were inserted “, or
- (iii) transmitted by electronic means,”.