



Scottish Public Services Ombudsman Act 2002

2002 asp 11

Investigations by the Ombudsman

13 Evidence

- (1) For the purposes of an investigation, the Ombudsman may require the listed authority in question and any of the persons mentioned in subsection (2) to supply information or produce documents relevant to the investigation.
- (2) Those persons are—
 - (a) any member, officer or member of staff of the listed authority, and
 - (b) any other person,who in the Ombudsman's opinion is able to supply such information or to produce such documents.
- (3) Where the listed authority in question is an office-holder in the Scottish Administration, the persons referred to in subsection (2)(a) include, in particular—
 - (a) any other office-holder in the Scottish Administration,
 - (b) any member of the staff of the Scottish Administration assigned to assist the office-holder under investigation in the exercise of the office-holder's functions.
- (4) For the purposes of any such investigation the Ombudsman has the same powers as the Court of Session in respect of—
 - (a) the attendance and examination of witnesses (including the administration of oaths and the examination of witnesses abroad), and
 - (b) the production of documents.
- (5) No obligation to maintain secrecy or other restriction on the disclosure of information obtained by or supplied to persons in Her Majesty's service, whether imposed by any enactment or by any rule of law, applies to the disclosure of information for the purposes of an investigation by the Ombudsman.
- (6) The Crown (whether in right of Her Majesty's Government in the United Kingdom or in right of the Scottish Administration) is not entitled in relation to any investigation

Changes to legislation: Scottish Public Services Ombudsman Act 2002, Section 13 is up to date with all changes known to be in force on or before 22 January 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. (See end of Document for details) View outstanding changes

by the Ombudsman to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.

- (7) No person is or may be required or authorised by virtue of this Act to supply any information or answer any question relating to proceedings of the Scottish Cabinet or of any committee of the Scottish Cabinet, or to produce so much of any document as relates to such proceedings.
- (8) For the purposes of subsection (7), a certificate issued by the most senior member of the staff of the Scottish Administration, with the approval of the First Minister, and certifying that any information, question, document or part of a document so relates is conclusive.
- (9) Subject to subsections (5) and (6), no person is compelled, for the purposes of an investigation by the Ombudsman, to give any evidence or produce any document which that person could not be compelled to give or to produce in civil proceedings before the Court of Session.
- [^{F1}(10) Any reference in subsections (1) to (3) to the listed authority in question or to the listed authority includes, in relation to an investigation following a complaint, a reference to a listed authority—
 - (a) which is not mentioned in the complaint, but
 - (b) whose action is investigated by the Ombudsman in connection with the investigation.]

Textual Amendments

- F1** S. 13(10) inserted (1.4.2011) by [Scottish Parliamentary Commissions and Commissioners etc. Act 2010 \(asp 11\)](#), s. 31(5), **sch. 3 para. 4** (with s. 31(6), **sch. 7**)

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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. 2 para. 37A inserted by [2007 asp 3 Sch. 5 para. 27](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 27 repealed (31.1.2011) by 2010 asp 8, sch. 4 Pt. 2; S.S.I. 2011/30, art. 3(1), Sch. 1)
- sch. 2 para. 32ZA inserted by [2023 asp 6 sch. 2 para. 1\(2\)](#)