

*These notes relate to the Freedom of Information (Scotland)
Act 2002 (asp 13) which received Royal Assent on 28 May 2002*

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 4 – Enforcement

8. This Part sets out arrangements for an applicant, who is not satisfied with the response of a Scottish public authority to a request for information, to apply to the Commissioner for a decision on whether the authority has acted in accordance with the provisions of the Act. Subject to certain conditions, the Commissioner is under a duty to reach a decision. The Commissioner is also given powers to mediate between parties to an appeal.
9. This Part also describes the investigative and enforcement powers of the Commissioner. The Commissioner's powers of entry and inspection are set out in schedule 3. This Part confirms that the Act does not give rise to any right of compensation from a Scottish public authority for breach of statutory duty. However, judicial review or appeal to the Court of Session on a point of law may still be available. This Part also provides for the circumstances in which a certificate may be issued by the First Minister, after consulting the other Scottish Ministers, in respect of a decision notice or enforcement notice issued by the Commissioner regarding the disclosure of exempt information. The effect of such a certificate is that the Scottish Administration need not comply with the Commissioner's notice.