



Scottish Biometrics Commissioner Act 2020

2020 asp 8

Information-gathering

16 Power to gather information

- (1) The Commissioner may require any person in relation to whom the Commissioner has functions under section 2(1) to supply information which the Commissioner reasonably requires for the purpose of—
 - (a) determining whether persons who are required by section 9(1) to comply with the code of practice have done or are doing so, or
 - (b) exercising any of the Commissioner's other functions.
- (2) Where a requirement is imposed under subsection (1), the Commissioner must give the person a written notice specifying—
 - (a) the information, or the nature of the information, which is to be supplied,
 - (b) the form in which it is to be supplied,
 - (c) the date on or by which it is to be supplied,
 - (d) in the case of information which is to be supplied by means of a statement in person, the place at which it is to be supplied, and
 - (e) the particular matters in connection with which it is required.
- (3) A person is not obliged under this section to provide information which that person would be entitled to refuse to provide in proceedings in a court in Scotland.
- (4) The Commissioner may revoke any requirement imposed under subsection (1) by giving written notice to the person to whom notice of the requirement was given.
- (5) In this section, “information” includes unrecorded information.

Commencement Information

II S. 16 in force at 1.12.2020 by [S.S.I. 2020/250](#), [reg. 2](#)

Changes to legislation: There are currently no known outstanding effects for the Scottish Biometrics Commissioner Act 2020, Cross Heading: Information-gathering. (See end of Document for details)

17 Failure to comply with an information notice

- (1) Where a person who is obliged to provide information in accordance with a notice issued under section 16—
- (a) refuses or fails, without reasonable excuse, to comply with any requirement specified in the notice,
 - (b) attends to make a statement in person but refuses or fails, without reasonable excuse, to answer any question concerning the matters specified in the notice, or
 - (c) alters, suppresses, conceals or destroys, without reasonable excuse, any information which the person is required to produce,
- the Commissioner may report the matter to the Court of Session.
- (2) The Commissioner may also report the matter to the Court of Session where the Commissioner considers that a person who is mentioned in subsection (1) is likely to do any of the things specified in paragraphs (a) to (c) of that subsection.
- (3) After receiving a report under subsection (1) or (2) and hearing any evidence or representations on the matter, the Court may (either or both)—
- (a) make such order for enforcement as it considers appropriate,
 - (b) deal with the matter as if it were a contempt of court.

Commencement Information

I2 S. 17 in force at 1.12.2020 by [S.S.I. 2020/250, reg. 2](#)

18 Admissibility of statements in criminal proceedings

An oral or written statement made by a person which the person was required to give under section 16 is not admissible in any criminal proceedings against that person.

Commencement Information

I3 S. 18 in force at 1.12.2020 by [S.S.I. 2020/250, reg. 2](#)

19 Offence of Commissioner's office disclosing confidential information

- (1) A person mentioned in subsection (2) commits an offence if—
- (a) the person knowingly discloses any information which—
 - (i) has been obtained by or on behalf of the Commissioner for the purposes of exercising the Commissioner's functions, and
 - (ii) at the time of disclosure is not, and has not previously been, in the public domain, and
 - (b) the disclosure is not authorised by subsection (3).
- (2) The persons referred to in subsection (1) are persons who are or have been—
- (a) the Commissioner,
 - (b) a member of the Commissioner's staff,
 - (c) an agent of the Commissioner.

Changes to legislation: *There are currently no known outstanding effects for the Scottish Biometrics Commissioner Act 2020, Cross Heading: Information-gathering. (See end of Document for details)*

- (3) For the purposes of subsection (1)(b), disclosure is authorised only so far as—
- (a) it is made with the consent of the person from whom the information was obtained,
 - (b) it is necessary for the purpose of enabling or assisting the exercise of the Commissioner's functions under this Act, or
 - (c) it is made for the purposes of legal proceedings, whether criminal or civil (including for the purposes of the investigation of any offence or suspected offence).
- (4) A person who commits an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.

Commencement Information

I4 [S. 19](#) in force at 1.12.2020 by [S.S.I. 2020/250](#), [reg. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the Scottish Biometrics Commissioner Act 2020, Cross Heading: Information-gathering.