
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 520

The Environmental Information (Scotland) Regulations 2004

Personal data

11.—(1) To the extent that environmental information requested includes personal data of which the applicant is the data subject then the duty under regulation 5(1) to make it available shall not apply to those personal data.

(2) To the extent that environmental information requested includes personal data of which the applicant is not the data subject and in relation to which either the first or second condition set out in paragraphs (3) and (4) is satisfied, a Scottish public authority shall not make the personal data available.

(3) The first condition is—

(a) in a case where the information falls within paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998⁽¹⁾ that making the information available otherwise than under these Regulations would contravene—

(i) any of the data protection principles; or

(ii) section 10 of that Act (right to prevent processing likely to cause damage or distress) and; in all the circumstances of the case, the public interest in making the information available is outweighed by that in not doing so; and

(b) in any other case, that making the information available otherwise than under these Regulations would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

(4) The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1) of that Act and, in all the circumstances of the case, the public interest in making the information available is outweighed by that in not doing so.

(5) In determining whether anything done before 24th October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the Data Protection Act 1998 shall be disregarded.

(6) For the purposes of this regulation, a Scottish public authority may respond to a request by not revealing whether information exists or is held by it, whether or not it holds such information, if to do so would involve making information available in contravention of this regulation.

(1) 1998 c. 29.