



## **Freedom of Information (Scotland) Act 2002**

### **Publication Scheme**

Welcome to the Scottish Law Commission's Publication Scheme.  
(updated: February 2010)

We are committed to openness about the way we undertake our law reform work and this scheme is intended to support that commitment.

We hope you find the scheme helpful and that it enables you to find out how to obtain the information you are looking for. If you need any help in finding information please get in touch with our office manager, Jim Barbour. The Commission's contact details are as follows:

**Address:** Scottish Law Commission, 140 Causewayside, EDINBURGH EH9 1PR

**Telephone** (switchboard): 0131 668 2131

**Fax:** 0131 662 4900

**General e-mail:** [info@scotlawcom.gov.uk](mailto:info@scotlawcom.gov.uk)

**Freedom of Information/publication scheme enquiries:** [FOI@scotlawcom.gov.uk](mailto:FOI@scotlawcom.gov.uk)

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## **Freedom of Information (Scotland) Act 2002**

1. The Freedom of Information (Scotland) Act 2002 ("the 2002 Act") was passed by the Scottish Parliament on 24 April 2002, received Royal Assent on 28 May 2002 and came fully into force on 1 January 2005.

2. The Act -

- provides a right of access to information held by Scottish public authorities;
- provides for exemptions from the duty to disclose information;
- establishes arrangements for enforcement and appeals; and
- provides for the appointment of a Scottish Information Commissioner to promote good practice and to ensure that Scottish public authorities comply with the Act.

3. The Scottish Law Commission ("the Commission") is listed as a public body under Part 7 of schedule 1 to the 2002 Act. Since 1 January 2005 there are two ways in which you can seek to obtain information about the Commission and the work it does:

- by accessing information which we make available under our publication scheme;
- by making a request for information (not covered by the publication scheme) under section 1 of the 2002 Act.

Until then, information is made available under our publication scheme.

4. A leaflet giving general information about Freedom of Information in Scotland and the Commission's role in relation to it is available on our website [www.scotlawcom.gov.uk](http://www.scotlawcom.gov.uk) or in paper form under the publication scheme.

### **Publication scheme - introduction**

5. Under section 23 of the 2002 Act Scottish public authorities are required to adopt and maintain a publication scheme listing the classes of information which they actively publish or intend to publish, how the information can be obtained and whether there is a charge for providing it.

6. Our publication scheme has been prepared to fulfil our obligations under section 23 of the 2002 Act. It sets out -

- the classes of information which we publish or intend to publish;
- how we will publish the information in each class; and
- whether we will provide the information free or make a charge for it.

The aim is to make a large amount of information about the Commission and its work available to the public.

## **The Scottish Law Commission**

7. The Scottish Law Commission was set up by the Law Commissions Act 1965. The Commission is sponsored by the Scottish Government Justice Department which is responsible for most of our funding and for the co-ordination of our work with that of the Scottish Government.

8. Our role under the 1965 Act is to keep the law of Scotland under review and to recommend reforms to improve, simplify and update it.

### ***How we undertake our work***

9. Our main work is in reforming the law. We also work on consolidation of statutes and on statute law revision as well as giving advice and information to Government. We have responsibilities in all areas of Scots law including those reserved to the legislative competence of the UK Parliament at Westminster.

10. Some of our work is carried out jointly with the Law Commission for England and Wales. Details of our joint projects are contained in our Annual Report.

11. In going about the various types of work that we do, our aim is to play a leading role in developing the law for the people of Scotland so that it is just, principled, responsive and easy to understand.

12. In choosing areas of work, we are guided by judges, lawyers, government departments, the Scottish Government, interest groups and the general public who provide information of their experiences in applying a particular area of the law or in obtaining legal remedies.

### ***Law reform projects***

13. A law reform project can be initiated by ourselves or jointly with the Law Commission for England and Wales. Proposals sometimes come from organisations or individuals. Scottish Ministers may also ask us to undertake work on a certain area of the law. Our authority to carry out work is contained in ongoing Programmes of Law Reform approved by the Scottish Ministers or on the basis of a reference from the Scottish Ministers. We are currently working under our [Eighth Programme of Law Reform](#).

14. Our law reform work usually consists of -

- research into areas of Scots law and how other countries have reformed their law in these areas
- identification of problems with the current law
- formulation of policy on how the law might be reformed
- consultation on proposals set out in a discussion paper
- consideration of responses to consultation
- review of policy in the light of consultation

- publication of a report to Ministers with recommendations on how the law should be reformed. Most of our reports include draft legislation (in the form of a draft Bill) to give effect to the recommendations.

Once we have reported, implementation of the recommendations in our reports is for the Scottish Parliament or in some cases the UK Parliament at Westminster.

### ***Consolidation of statutes***

15. Consolidation is the re-enactment, in one Act, of all the provisions on one topic of the law scattered throughout various statutes. This does not alter the law but makes it easier to find and use. Consolidation is a vital element of law reform and is a regular part of our work (sometimes undertaken jointly with the Law Commission for England and Wales).

### ***Statute law revision***

16. This is a "spring-cleaning" of the Statute Book, some of which is also undertaken jointly with the Law Commission for England and Wales. Acts of Parliament which have been superseded by other Acts or which deal with situations which have ceased to exist can be repealed by a simplified Parliamentary procedure.

### ***Giving advice and information to Government***

17. The range of advice given varies greatly. A telephone call or letter may be sufficient in some cases but, in other situations, a lot of research has to be done, resulting in a formal published document.

### **Preparing our publication scheme**

18. The purposes of our publication scheme are:

- to ensure that a large amount of information is readily available to the public
- to inform the public of the extent of the material that is or will be made available.

In preparing our publication scheme we have therefore had regard to the public interest in allowing access by the public to information about the Commission and its work.

19. We have also undertaken an internal review of the classes of information that we hold and the types of information currently requested by the public. We have also consulted the Law Commission for England and Wales and the Scottish Government in the course of preparing our scheme.

### **Responsibility for our publication scheme**

20. The Commission's Chief Executive, Mr Malcolm McMillan, has overall responsibility for the publication scheme. He can be contacted as follows:

Malcolm McMillan  
Chief Executive  
Scottish Law Commission  
140 Causewayside  
Edinburgh  
EH9 1PR

Tel: 0131 668 2131  
Fax: 0131 662 4900  
E-mail: [malcolm.mcmillan@scotlawcom.gov.uk](mailto:malcolm.mcmillan@scotlawcom.gov.uk)

21. Our Office Manager, Jim Barbour, has responsibility for maintaining the publication scheme on a day to day basis. He can be contacted at the same address, telephone and fax number and by email to: [FOI@scotlawcom.gov.uk](mailto:FOI@scotlawcom.gov.uk).

## **Exemptions**

22. The Commission's aim is to be as open as possible. However, information may be withheld from any of the classes of information which is considered exempt under the 2002 Act. For example, information will be withheld where disclosure is prohibited by law or may be withheld where we consider that disclosure may seriously prejudice the effective conduct of public affairs or commercial interests of any person or organisation. We may also withhold information that is personal information under the Data Protection Act 1998 or where disclosure would be in breach of confidence.

23. If we do withhold information, we will indicate that this is the case and the reason for doing so.

## **Data Protection Act 1998**

24. The Data Protection Act 1998 gives individuals the right to request access to personal data that the Commission holds about them. If you wish information about yourself you can request it under the 1998 Act. If you wish information about someone else, you can request it under the Freedom of Information (Scotland) Act 2002. Requests under the 1998 Act for personal data are known as Subject Access Requests.

25. A Subject Access Request should be made by letter or e-mail and should be addressed to the Chief Executive. Please include your full name and contact details in any correspondence. It would be helpful if you could be as specific as possible about the personal data that you are seeking. If you wish to make a Subject Access Request please contact:

Malcolm McMillan  
Chief Executive  
Scottish Law Commission  
140 Causewayside  
EDINBURGH  
EH9 1PR

Telephone: 0131 668 2131  
Fax: 0131 662 4900  
E-mail: [malcolm.mcmillan@scotlawcom.gov.uk](mailto:malcolm.mcmillan@scotlawcom.gov.uk)

## How to obtain information under the publication scheme

26. The Appendix to our publication scheme lists the classes of information that we make available. It also gives details as to how the information can be obtained.

- **On our website:** Most of the information listed is available on our website [www.scotlawcom.gov.uk](http://www.scotlawcom.gov.uk)

Please click on the relevant link shown in the Appendix to the publication scheme which will take you to the relevant page or document.

- **From the Stationery Office (TSO)**

In the case of publications printed and distributed by TSO, copies may be purchased from the TSO online bookshop ([www.tsoshop.co.uk](http://www.tsoshop.co.uk))

- **By e-mail:** If the information that you want is not available on our website but is listed in the publication scheme, we will send a copy by e-mail where possible.

If you would like us to send you a copy by e-mail please contact Jim Barbour (Tel: 0131 668 2131 or e-mail: [FOI@scotlawcom.gov.uk](mailto:FOI@scotlawcom.gov.uk)) with details of the information you require.

- **By phone:** You can request information by telephone. Please contact Jim Barbour (Tel: 0131 668 2131). Please provide full contact details including a day time telephone number, in case we need to contact you about your request.

**By post:** Most information is also available in paper form. If you would like us to send you a paper copy of information please contact Jim Barbour (at the Commission's office, 140 Causewayside, Edinburgh EH9 1PR, telephone 0131 668 2131 or e-mail [FOI@scotlawcom.gov.uk](mailto:FOI@scotlawcom.gov.uk)) with details of the information you require.

When requesting information, please include the following details: Your name, address, the information or documents that you want us to copy. It would also be helpful if you could include a day time telephone number in case we need to contact you about your request.

- **Personal visits to the Commission's office:** For some classes of information you may wish or need to make an appointment to see the information or document at the Commission's office. Please contact Jim Barbour at the Commission's office, 140 Causewayside, Edinburgh EH9 1PR, telephone 0131 668 2131 or e-mail: [FOI@scotlawcom.gov.uk](mailto:FOI@scotlawcom.gov.uk) to make an appointment.

27. We will take reasonable steps within the resources available to us to meet requests for information in a particular format.

28. If you would like us to provide information in a particular format or you have any problems accessing information, or you need help to determine what information you require, please contact Jim Barbour at the Commission's office, 140 Causewayside, Edinburgh EH9 1PR, telephone 0131 668 2131, e-mail: [FOI@scotlawcom.gov.uk](mailto:FOI@scotlawcom.gov.uk) and he will be happy to help.

## Copyright

29. The information we produce is subject to Crown copyright, which is administered by the Queen's Printer for Scotland. The material listed in this publication scheme is Crown copyright unless stated otherwise.

30. The copyright in some of the material has been waived. This means that the material may be re-used free of charge in any format or medium for research for non-commercial purposes, private study or internal circulation within an organisation. This is subject to it being re-used accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the publication specified. Categories of material for which copyright has been waived include: news releases, legislation and explanatory notes on legislation, consultation documents, reports, documents featured on our website (except where expressly indicated otherwise) and unpublished public records. More details of these and other categories can be found at: [http://www.oqps.gov.uk/copyright/pubcopyright\\_gn.htm](http://www.oqps.gov.uk/copyright/pubcopyright_gn.htm)

31. For other types of material, the supply of documents under Freedom of Information does not give the person or organisation who receives them an automatic right to re-use the documents in a way that would infringe copyright, for example, by making multiple copies, publishing and issuing copies to the public.

32. For any other use of material please apply for a Click-Use Licence for core material from the Office of Public Sector Information (OPSI) website: [www.opsi.gov.uk/click-use/index.htm](http://www.opsi.gov.uk/click-use/index.htm). Telephone enquires about Click-Use Licences should be made to OPSI, Tel: 01603 621000.

33. Authorisation to re-use material that is not Crown copyright should be sought from the copyright holder concerned.

## Archiving policy

34. The Commission has agreed a policy for the creation, retention, preservation and eventual destruction of its records. The aim of the policy is to ensure that records are retained for as long as they are required to support the Commission's business and that appropriate records are retained and made accessible in order to achieve openness in the way we undertake our law reform work.

## Charges for providing information

35. **Charges.** We aim to provide information free of charge where at all possible. Information listed in this publication scheme as available on our website [www.scotlawcom.gov.uk](http://www.scotlawcom.gov.uk) may be downloaded free of charge.

36. We will provide paper copies of information on request. Where you request a copy of a report, consultative memorandum or discussion paper that is not available from TSO, we will supply a printed copy free of charge if we have sufficient stocks to enable us to do so. Requests for printed copies will incur a reasonable charge for postage and packing. Where we no longer have printed copies of publications available, or in relation to requests for other information, a paper copy of information up to 50 pages long will be provided free of charge.

We will charge 10 pence per page for copies of information comprising more than 50 pages, plus postage and packing.

37. **How to make payment.** We will write to tell you how much it will cost for us to provide a paper copy of information that you have requested. A copy of the document requested will be sent to you when we receive your payment. Payment may be made by postal order or cheque made payable to: "The Scottish Law Commission". Payment may also be made in cash at the Commission's office.

## Complaints

38. If you are dissatisfied with the accessibility of information under our publication scheme or you wish to make a complaint about the way your enquiry has been dealt with, please write to:

Malcolm McMillan  
Chief Executive  
Scottish Law Commission  
140 Causewayside  
EDINBURGH  
EH9 1PR

Fax: 0131 662 4900

E-mail: [malcolm.mcmillan@scotlawcom.gov.uk](mailto:malcolm.mcmillan@scotlawcom.gov.uk)

39. If we are unable to resolve any complaint you can refer the matter to the Scottish Information Commissioner. The Scottish Information Commissioner can be contacted as follows:

The Office of the Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS

Tel: 01334 464610

Fax: 01334 464611

E-mail: [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

## Feedback

40. To help us to review our publication scheme and to ensure that it is working effectively, we welcome any comments you may have on any aspect of the scheme. In particular we would welcome feedback on whether you find the information easy to locate and whether there is any other information about the Commission's work that you would like us to make available through our publication scheme. Please send your comments to: Jim Barbour, Office Manager, Scottish Law Commission, 140 Causewayside, Edinburgh EH9 1PR or e-mail [FOI@scotlawcom.gov.uk](mailto:FOI@scotlawcom.gov.uk).

## **Review of our publication scheme**

41. Section 23 of the 2002 Act requires Scottish public authorities to review their publication schemes from time to time. We will review our publication scheme each year.

## **Useful website links and addresses**

42. Please refer to the following for more information on freedom of information:

- Freedom of Information (Scotland) Act 2002: available on the OPSI website [www.opsi.gov.uk/index.htm](http://www.opsi.gov.uk/index.htm) or from the TSO Bookshop ([www.tsoshop.co.uk](http://www.tsoshop.co.uk))
- Scottish Information Commissioner: [www.itspublicknowledge.info](http://www.itspublicknowledge.info) Address: The Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife KY16 9DS
- UK Information Commissioner: [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)
- Scottish Government Freedom of Information Unit: [www.scotland.gov.uk/topics/government/foi](http://www.scotland.gov.uk/topics/government/foi)

## Appendix Classes of information that we make available

This is a list of the classes or types of information that the Commission routinely makes available or will make available to the public. It explains how the information can be obtained and in what format. Requests for information which is not available under our publication scheme may be made under section 1 of the Freedom of Information (Scotland) Act 2002.

Please see paragraphs 37-39 above about charges for providing paper copies of information.

Class of information	How to obtain the information and the format in which it is available	Notes
<p><b>Information leaflets</b></p> <p>Comprising:</p> <p>(1) <a href="#">Leaflet about Freedom of Information in Scotland</a>:</p> <p>The leaflet provides a general guide for the public about the Freedom of Information (Scotland) Act 2002</p> <p>(2) Leaflet about the Commission "Scottish Law Commission – Promoting Law Reform in Scotland"</p> <p>This leaflet describes who we are, what we do and how to contact us</p>	<p>(1) Available on our website in pdf and HTML format</p> <p>Also available on request in paper form</p> <p>(2) Available on request in paper form only</p>	<p>Further information about the Commission and its work is also available on our website under <a href="#">"About us"</a></p>
<p><b>Information about Commissioners and Staff</b></p> <p>Comprising:</p> <p>(1) Biographies of Commissioners and Chief Executive</p> <p>(2) Register of Commissioners' interests</p>	<p>(1) Available on our website under <a href="#">"Commissioners and Staff"</a></p> <p>(2) Available on our website <a href="#">"About us"</a> page</p> <p>Also available on request in paper form</p>	

<p>(3) Staff list/organisational chart (giving the names and job titles of current staff)</p>	<p>(3) Available on our website under "<a href="#">Commissioners and Staff</a>"</p> <p>Also available on request in paper form</p>	
<p><b>Information about current projects</b></p> <p>Comprising:</p> <p>List of current projects and allocation of responsibility for projects</p>	<p>Available on our website under "<a href="#">Current Projects</a>"</p> <p>Also available on request in paper form</p>	
<p><b>Annual Reports</b></p> <p>Reporting on progress with our work and including: expenditure; developments in the Commission; how we have promoted law reform; implementation of our reports; details of staff and resources; and listing the publications we expect to publish in the forthcoming year</p>	<p>Printed copies of our annual reports may be purchased from TSO (<a href="http://www.tsoshop.co.uk">www.tsoshop.co.uk</a>) (while still in print)</p> <p>Many of our annual reports are available on our website in pdf format under "<a href="#">Publications – Reports</a>"</p> <p>Earlier annual reports are available on request in paper form</p>	
<p><b>Programmes of work</b></p> <p>Comprising:</p> <p>(1) Programmes of law reform: setting out our programme of law reform work over a certain period (usually 5 years)</p>	<p>(1) Printed copies of our current programme of law reform may be purchased from TSO (<a href="http://www.tsoshop.co.uk">www.tsoshop.co.uk</a>) (while still in print)</p> <p>Our Eighth Programme 2010-2014 (which is our current programme of law reform) is available on our website in pdf format under "<a href="#">Programme of Law Reform</a>". It is also available on request in paper form</p>	

<p>(2) Programmes of consolidation and statute law revision: setting out our programme of work on consolidation and statute law revision over a certain period (usually 5 years)</p>	<p>Our Seventh Programme 2005-2009 (which has now been superseded) is available on our website in pdf format under "<a href="#">Publications</a>" – "<a href="#">Reports</a>". It is also available in paper form on request</p> <p>Copies of our earlier programmes of law reform are available on our website or on request in paper form</p> <p>(2) Copies of our programmes of consolidation and statute law revision are available on request in paper form only</p>	
<p><b>Consultation documents</b></p> <p>Comprising:</p> <p>(1) Consultative Memoranda seeking comments on proposals for reform of the law on a particular topic</p> <p>(2) Discussion Papers seeking comments on proposals for reform of the law on a particular topic</p> <p>(3) Other consultation papers issued since April 2001 on law reform or consolidation projects</p>	<p>(1) Consultative Memoranda are available on request in paper form only</p> <p>(2) Printed copies of our discussion papers published since April 2001 may be purchased from TSO (<a href="http://www.tsoshop.co.uk">www.tsoshop.co.uk</a>) (while still in print)</p> <p>Many of our discussion papers are available on our website in pdf format under "<a href="#">Publications – Discussion Papers</a>"</p> <p>Discussion papers are also available on request in paper form</p> <p>(3) Available on our website in pdf format under "<a href="#">Publications – Consultation papers</a>". They are also available on request in paper form</p>	

<p>(4) Public consultation leaflets, comprising:</p> <ul style="list-style-type: none"> <li>• leaflets on proposals for reform of the law on a particular topic</li> <li>• leaflets seeking comments on topics to be included in our future programmes of law reform</li> </ul>	<p>(4) available on request in paper form</p>	
<p>(5) Papers relating to consultation seminars held since April 2002 (seminar programmes and position papers only)</p>	<p>(5) Available on request in paper form</p>	<p>(5) Copyright in any paper not contributed by the Commission belongs to the author concerned</p>
<p>(6) Responses to discussion papers and consultation papers</p>	<p>(6) Responses to discussion papers and consultation papers published after July 2005 are available on request in paper form, once the responses have been considered at a Commission meeting.</p>	<p>(6) We will not make a response available where –</p> <p>(a) a respondent has asked for the response to be treated as confidential, or</p> <p>(b) the Commission considers that a response should be treated as confidential.</p> <p>Copyright in each response belongs to the respondent concerned</p>
<p>(7) Summaries of responses to discussion papers and consultation papers</p>	<p>(7) Summaries of responses to discussion papers and consultation papers published after July 2005 will be made available in paper form on request, once they have been considered at a Commission meeting. (please see notes)</p>	<p>(7) Summaries of responses made available on request will not include reference to any responses where-</p> <p>(a) the respondent has asked for the response to be treated as</p>

		<p>confidential; or</p> <p>(b) the Commission considers that the response should be treated as confidential.</p> <p>Summaries of responses will not be made available in relation to projects where the subject matter is considered by Commissioners to be of a sensitive nature.</p>
<p><b>Reports</b></p> <p>Containing our final recommendations on -</p> <ul style="list-style-type: none"> <li>• law reform topics</li> <li>• consolidation of statutes</li> <li>• statute law revision (all these reports have so far been joint reports with the Law Commission for England and Wales)</li> </ul>	<p>Printed copies of our reports may be purchased from TSO (<a href="http://www.tsoshop.co.uk">www.tsoshop.co.uk</a>) (while still in print)</p> <p>Many of our reports are available on our website in pdf format under "<a href="#">Publications – Reports</a>"</p> <p>Reports are also available on request in paper form</p>	
<p><b>News releases</b></p> <p>Comprising:</p> <ul style="list-style-type: none"> <li>• News releases issued on publication of our discussion papers, consultation papers and reports</li> <li>• Miscellaneous news releases (eg issued in connection with consultation on the topics to be included in our future programmes of law reform)</li> </ul>	<p>News releases issued since September 2000 are available on our website in pdf format under "<a href="#">News Releases</a>"</p> <p>Paper copies of news releases for discussion papers and consultation papers issued since DP No 80 (1987) are available on request</p> <p>Paper copies of news releases for reports issued since Scot</p>	

	Law Com No 122 (1989) are available on request	
<b>Information about implementation of our recommendations</b>	Available on our website under " <a href="#">Publications – Implementing legislation since 1990</a> ". Also available on request in paper form	
<b>Minutes of Commission Meetings</b>  Comprising:  Minutes of Commission meetings in relation to reports published after 30 November 2004 plus relevant papers circulated for discussion at those meetings	Available on request in paper form	
<b>Recruitment literature</b>  Comprising:  Advert, application forms and guide for legal assistant posts	Available on our website under " <a href="#">Working with us</a> " during the currency of our recruitment campaigns.  Also available on request in paper form	
<b>Internal guidance material</b>  Comprising:  Formal guidance on office policies and procedures	Available on request in paper form	
<b>Financial information</b>  Information about the running costs of the Commission	Details for the latest financial year are available in our most recent annual report which can be accessed on our website in pdf format under " <a href="#">Publications – Annual Report</a> "  Also available on request in paper form	