

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 1 – Access to information held by Scottish public authorities

Section 21 – Review by Scottish public authority

73. This section sets out the procedures to be followed by a Scottish public authority in dealing with an applicant's requirement for review under section 20. An authority must respond to a requirement for review within 20 working days of receiving it, and can confirm the initial decision, arrive at a different decision or simply arrive at a decision (where the complaint is that none was reached in the first instance). The Keeper of the Records of Scotland is allowed 30 working days where the case is one covered by section 22(4), that is where another authority besides the Keeper has a role to play in carrying out the necessary review.
74. In responding to the applicant, the authority is required by section 21(5) to set out what decision has been reached and the reasons for arriving at that decision. The authority must also set out for the applicant the procedures for an application to the Scottish Information Commissioner and an appeal to the Court of Session (section 21(10)).
75. Regulations may be made by the Scottish Ministers under section 21(6) to vary the 20 (or in the case of the Keeper when the second condition in section 21(2) is met, the 30) working day timescale. Such regulations will be subject to affirmative resolution.
76. Under section 21(8) an authority is not required to carry out a review where it believes the request to be "vexatious" or "repeated" in terms of section 14 (a request which is identical or substantially similar to a previous request by the same applicant, where no reasonable period of time has passed since the previous request). If an authority decides that it is not obliged to conduct a review, it must still respond to the applicant within the 20 working day period (30 working day period for the Keeper) indicating that it considers the requirement for review to be vexatious or repeated and also set out for the applicant the procedures for an application to the Scottish Information Commissioner and an appeal to the Court of Session.
77. An applicant can at any time by written notice withdraw a requirement for review.