

*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 – SECTION BY SECTION

Part 2 – Exempt information

Section 38 – Personal information

106. This section deals with personal information (much of which may in any event be available to the individual concerned under the Data Protection Act 1998). Section 38(1) exempts absolutely personal data, of which the applicant is the subject, personal census information and the health records of a deceased person. Section 38(1)(b) exempts personal data relating to a third party (i.e. not the applicant), but only if it meets either of the conditions mentioned in section 38(2) and (3). This is an absolute exemption in circumstances where the conditions in section 38(2) and (3) are met. Where these conditions are not met the public interest test at section 2 applies.