

*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 39 – Health, safety and the environment

107. Section 39(2) exempts information if that information is required to be made available by virtue of environmental information regulations (EIRs) made under section 62. Environmental information is exempt if an authority is obliged to release the information requested in accordance with those regulations or would be so obliged but for an exemption under those regulations. Access to environmental information held by a Scottish public authority will be available first under those regulations, rather than under the Act. However, the Act would still continue to have some significance as regards environmental information, since it places a duty on public authorities to consider the release of that information which is exempt under the EIRs, where it is in the public interest so to do. The public interest test in section 2 applies.