

FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 3 – The Scottish Information Commissioner

Section 42 – The Scottish Information Commissioner

110. This section provides as to the appointment of the Scottish Information Commissioner and the basis on which that office is held.
111. Under section 42(1) the Commissioner will be appointed by Her Majesty on the nomination of the Parliament. The Parliamentary corporation will determine the Commissioner's salary, allowances and other terms and conditions. The Commissioner will hold office for a term not exceeding 5 years and for no longer than 2 terms unless re-appointment for a third is desirable in the public interest. The Commissioner retires at the end of the calendar year in which the age of 65 is reached, and can be removed from office by Her Majesty following a resolution of the Parliament passed by a majority of no less than two thirds of the total number of members of the Parliament.
112. Under section 42(7) the Commissioner is not subject to the direction or control of the Parliament, the Parliamentary corporation or any member of the Scottish Executive, except in relation to the preparation of accounts (which, under paragraph 5 of schedule 2, must be in accordance with any directions provided by the Scottish Ministers) and the appointment of staff (which, under paragraph 3(4) of schedule 2, requires the approval of the Parliamentary corporation).