

*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**

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## **EXPLANATORY NOTES**

### **THE ACT – SECTION BY SECTION**

#### **Part 3 – The Scottish Information Commissioner**

##### ***Section 45 – Confidentiality of information obtained by or furnished to Commissioner***

115. This section sets out the conditions governing the disclosure of information held by the Commissioner. The Commissioner, or a member of his or her staff, or an agent of the Commissioner will not be able to disclose information furnished to the Commissioner under this Act and which is not available in the public domain, unless that disclosure is made with lawful authority.
116. The Commissioner will be considered to have lawful authority where the circumstances set out at Section 45(2) are present, including where disclosure is required under this Act (as a consequence of an FOI request made to the Commissioner). Sections 45(3) and 45(4) create a criminal offence of knowingly or recklessly disclosing information without the lawful authority mentioned in section 45(2).