



Freedom of Information (Scotland) Act 2002

2002 asp 13

PART 2

EXEMPT INFORMATION

34 Investigations by Scottish public authorities and proceedings arising out of such investigations

- (1) Information is exempt information if it has at any time been held by a Scottish public authority for the purposes of—
- (a) an investigation which the authority has a duty to conduct to ascertain whether a person—
 - (i) should be prosecuted for an offence; or
 - (ii) prosecuted for an offence is guilty of it;
 - (b) an investigation, conducted by the authority, which in the circumstances may lead to a decision by the authority to make a report to the procurator fiscal to enable it to be determined whether criminal proceedings should be instituted; or
 - (c) criminal proceedings instituted in consequence of a report made by the authority to the procurator fiscal.
- (2) Information is exempt information if—
- (a) held by a Scottish public authority for the purposes of an inquiry instituted under the [^{F1}Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016] but not for the time being concluded; or
 - (b) held at any time by a Scottish public authority for the purposes of any other investigation being carried out—
 - (i) by virtue of a duty to ascertain; or
 - (ii) for the purpose of making a report to the procurator fiscal as respects, the cause of death of a person.
- (3) Information held by a Scottish public authority is exempt information if—

Changes to legislation: Freedom of Information (Scotland) Act 2002, Section 34 is up to date with all changes known to be in force on or before 23 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (a) it was obtained or recorded by the authority for the purposes of investigations (other than such investigations as are mentioned in subsection (1)) which are, by virtue either of Her Majesty's prerogative or of powers conferred by or under any enactment, conducted by the authority for any purpose specified in section 35(2); and
 - (b) it relates to the obtaining of information from confidential sources.
- (4) Information is exempt information if obtained or recorded by a Scottish public authority for the purposes of civil proceedings, brought by or on behalf of the authority, which arise out of such investigations as are mentioned in subsection (1) or (3).

Textual Amendments

- F1** Words in s. 34(2)(a) substituted (15.6.2017) by [Inquiries into Fatal Accidents and Sudden Deaths etc. \(Scotland\) Act 2016 \(asp 2\)](#), s. 42(2), **sch. 2 para. 10(2)**; S.S.I. 2017/155, reg. 2 (with regs. 4(2), 5)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- sch. 1 para. 74A inserted by [2023 asp 6 sch. 2 para. 2\(2\)](#)