

POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) ACT 2006 (ASP 10)

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Police

Chapter 2: Complaints and Misconduct

Other functions

Section 42 – General functions of the Commissioner

71. This section sets out the general functions of the Commissioner, which are mainly to ensure that each relevant authority has in place effective and efficient complaints handling systems. The Commissioner can also provide advice and make recommendations on how those systems and procedures can be improved or modified.

Section 43 – Reports to the Scottish Ministers

72. This section places a duty on the Commissioner to provide an annual report on the carrying out of his or her functions to the Scottish Ministers, each relevant authority and HMIC. The Commissioner must also provide reports on anything within his or her remit that the Scottish Ministers might require, and can also provide reports to the Scottish Ministers on anything which he or she considers appropriate.
73. Subsection (5) places a duty on the Scottish Ministers to lay before Parliament and publish all annual reports produced by the Commissioner. The Scottish Ministers must also publish and lay before Parliament any other reports which they receive from the Commissioner but only if they think it is appropriate to do so.

Section 44 – Provision of information to the Commissioner

74. This section places a duty on relevant authorities to provide, at the request of the Commissioner, information and documents required in order to carry out the Commissioner's functions.

Section 45 – Power of Commissioner to issue guidance

75. This section allows the Commissioner to issue guidance regarding the handling of complaints or any other matter specified within this Chapter of the Act. Subsection (2) requires the Commissioner to consult relevant persons and organisations before issuing guidance. Subsection (3) places a duty on those issued with guidance by the Commissioner to have regard to the terms of that guidance.

*These notes relate to the Police, Public Order and Criminal Justice (Scotland)
Act 2006 (asp 10) (asp 10) which received Royal Assent on 4 July 2006*

Section 46 – Disclosure of information by and to the Commissioner

76. This section enables the Commissioner to pass information to others and receive information from others when such information is necessary either for the Commissioner to fulfil his or her functions or for another public body or office-holder to fulfil their functions.
77. Subsections (2) and (3) place restrictions on the onward disclosure of information which the Commissioner gives to any body or office holder. Any body or office-holder that wants to disclose information which the Commissioner has given them can do so only if they have obtained the consent of the Commissioner, and the disclosure of this information is for a purpose connected with the body's or the office-holder's functions.