



Scottish Information
Commissioner
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Kenneth Gibson MSP
Convener
Scottish Parliament Finance
Committee
The Scottish Parliament
Edinburgh
EH99 1SP

3 December 2012

Dear *Kenneth,*

Freedom of Information (Amendment) (Scotland) Bill: Stage 2

I refer to previous correspondence, and the proposed amendments to the Freedom of Information (Amendment) (Scotland) Bill at stage 2 (the Amendment Bill).

Generally, I am supportive of the amendments proposed in the Amendment Bill but have concerns in two specific areas, section 5 (inc. 7A), and section 59 (inc. 1ZA and 1ZB). In summary, my concerns are:

1. Around section 5 that the consultation, particularly who is consulted, is too broadly stated and would benefit from greater clarity, and that the timescales proposed for reporting to Parliament, particularly in relation to the first report, are too long.
2. Around section 59, specifically in relation to the proposed 1ZB, that both the word "event" in 1ZB(a), and the general wording of 1ZA(b) are ambiguous.

Attached to this letter is a briefing note in which I have set out a response to the whole amendment bill. For ease of reference I have presented these by section as set out in the Amendment Bill, indicating which sections of FOISA would be impacted.

The note gives further details about my two general areas of concern and the issues I believe it would be helpful for the Committee to address in their deliberations. It also sets out those areas of the Amendment Bill, where my views remain unchanged from stage 1.



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As a final point, the current draft Amendment Bill, no longer includes the stage 1 proposal that came to be referred to as “The Royal Exemption”. This is something I support and welcome as it means that in practice that section 41(a) of FOISA will remain subject to the public interest test.

If you have any questions about the points made in the attached note, please contact us on 01334 464610.

Yours sincerely

Rosemary Agnew
Scottish Information Commissioner