SCOTTISH STATUTORY INSTRUMENTS

2004 No. 376

FREEDOM OF INFORMATION

The Freedom of Information (Fees for Disclosure under Section 13) (Scotland) Regulations 2004

Made - - - -	*2nd September 2004*
Laid before the Scottish Parliament	*6th September 2004*
Coming into force - -	*1st January 2005*

The Scottish Ministers, in exercise of the powers conferred on them by section 13(1) and (2) of the Freedom of Information (Scotland) Act 2002(**a**) and of all other powers enabling them in that behalf, after consulting the Scottish Information Commissioner in accordance with section 13(3) of that Act, hereby make the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Freedom of Information (Fees for Disclosure under Section 13) (Scotland) Regulations 2004.

(2) These Regulations shall come into force on 1st January 2005.

Interpretation

2. In these Regulations–

"the Act" means the Freedom of Information (Scotland) Act 2002; and

"projected costs" has the meaning set out in regulation 3.

Projected costs

3.—(1) In these Regulations, "projected costs" in relation to a request for information means the total costs, whether direct or indirect, which a Scottish public authority reasonably estimates in accordance with this regulation that it is likely to incur in locating, retrieving and providing such information in accordance with the Act.

(2) In estimating projected costs–

(a) no account shall be taken of costs incurred in determining–

(i) whether the authority holds the information specified in the request; or

(ii) whether the person seeking the information is entitled to receive the requested information or, if not so entitled, should nevertheless be provided with it or should be refused it; and

(b) any estimate of the cost of staff time in locating, retrieving or providing the information shall not exceed £15 per hour per member of staff.

(**a**) 2002 asp 13.

Fee payable

4. Where an authority proposes to communicate information to which section 13(1) of the Act (fees for disclosure in certain circumstances) applies, the fee which it may charge shall be such fee as it shall notify to and agree with the person who requests the information before the information is communicated, and in any case shall not exceed the sum of £50 plus the amount by which the projected costs exceed £600.

ANDREW P KERR
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
2nd September 2004

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the fees which may be charged by a Scottish public authority for disclosure of information which is not required under the Freedom of Information (Scotland) Act 2002 ("the Act") because the cost of compliance would exceed a prescribed amount and which is not otherwise required by law.

The fee which is payable is calculated by reference to the "projected costs". Regulation 3 sets out how these are calculated. The authority must estimate the likely cost of locating, retrieving and providing the requested information in accordance with the requirements of the Act. The authority's estimate will therefore reflect the cost of complying with a request from an applicant to be given information by a particular means where the authority is required to do so by section 11 of the Act. Projected costs do not include costs incurred by the authority in determining whether it holds the information or whether the applicant should be given it. The cost of staff time is capped at a maximum of £15 per hour per member of staff.

Regulation 4 provides for the calculation of the fee which may be charged.

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£3.00

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Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland
150 09/04 19593

ISBN 0-11-069225-X

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