

Our Ref: IM-FOI-2021-0285
Date: 2 March 2021



FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

I refer to your recent request for information which has been handled in accordance with the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004.

For ease of reference, your request is replicated below together with the response.

Please provide information on licences to kill seals issued by Police Scotland - including the names of 'nominated marksmen' - since 1 January 2020.

Please include copies of any firearms certificates, licences and any other official documents pertaining to the legal discharge of guns by marksmen to kill seals.

Please include information on cases involving the illegal use of firearms by marksmen, salmon farmers or any other parties in relation to the killing of seals on salmon farms.

Please therefore provide any information held by Police Scotland in relation to this case and any others involving seals killed by salmon farms since 1 January 2020.

Having considered your request, I can advise licenses for seal culling are issued under specific legislation by Marine Scotland and their information will include marksmen, discharges, incidents and the number of licenses issued.

Police Scotland issue firearms certificates which are conditioned for the appropriate weapon to be used in the culling of seals.

Since 1 January 2020 there have been 112 firearms certificates conditioned to allow for the culling of seals.

In relation to the information contained on a firearms certificate and information relating to investigations is considered to be exempt in terms of the Freedom of Information (Scotland) Act 2002 (the Act). Section 16 of the Act requires Scotland to provide you with a notice which: (a) states that it holds the information, (b) states that it is claiming an exemption, (c) specifies the exemption in question and (d) states, if that would not be otherwise apparent, why the exemption applies.

Where information is considered to be exempt, this letter serves as a Refusal Notice that information is held and an explanation of the appropriate exemption is provided.

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The exemptions that I consider to be applicable to the information requested by you are as follows:

Section 38(1) (b) – Personal Information

Whilst I accept that you may have a legitimate interest with regards the disclosure of this information and that disclosure may well be necessary for that purpose, I am nonetheless of the view that those interests are overridden by the interests or fundamental rights and freedoms of the data subject

To explain, the release of personal information, either directly or inadvertently is exempt under the Freedom of Information (Scotland) Act 2002. This is an absolute exemption which does not require a public interest test to be conducted.

Section 34 (1) (b) – Investigations

Section 35 (1) (b) – Law Enforcement

Section 34(1)(b) of the Act provides an absolute exemption from disclosure in that information is exempt information if it has at any time been held by Police Scotland for the purposes of an investigation which may lead to a decision to make a report to the Procurator Fiscal to enable it to be determined whether criminal proceedings should be instituted.

This, in turn, would be likely to prejudice substantially the ability of the police to investigate and detect crime, and would have a similar detrimental impact on the apprehension or prosecution offenders – making the information exempt from disclosure in terms of Section 35(1) (a) & (b).

I appreciate that there is a public interest in relation to police investigations and in particular the effective use of police resources by the service. Likewise, disclosure could also inform the public debate on the issue of policing and contribute to the accuracy of that debate. That said, it is essential that neither the investigation nor the potential for proceedings to be brought against an individual are put at risk.

Accordingly, at this time the public interest lies in protecting the integrity of investigative and criminal justice procedures by refusing to provide the information sought.

Should you require any further assistance please contact Information Management - Glasgow on 01786 895867 quoting the reference number given.

If you are dissatisfied with the way in which Police Scotland has dealt with your request, you are entitled, in the first instance, to request a review of our actions and decisions.

Your request must specify the matter which gives rise to your dissatisfaction and it must be submitted within 40 working days of receiving this response - either by email to foi@scotland.pnn.police.uk or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH.

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Office of the Scottish Information Commissioner within six months for a decision.

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You can apply [online](#), by email to enquiries@itspublicknowledge.info or by post to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Should you wish to appeal against the Office of the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

As part of our commitment to demonstrate openness and transparency in respect of the information we hold, an anonymised version of this response will be posted to the Police Scotland Freedom of Information [Disclosure Log](#) in seven days' time.