

**Changes to legislation:** Local Government (Access to Information) Act 1985, SCHEDULE to be Inserted into the Local Government (Scotland) Act 1973 is up to date with all changes known to be in force on or before 10 May 2023. 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

## SCHEDULES

### SCHEDULE TO BE INSERTED INTO THE LOCAL GOVERNMENT (SCOTLAND) ACT <sup>M1</sup>1973

#### Marginal Citations

M1 1973 c. 65.

#### “SCHEDULE 7A

#### ACCESS TO INFORMATION: EXEMPT INFORMATION

#### PART I

#### DESCRIPTIONS OF EXEMPT INFORMATION

- 1 Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office holder, former officer-holder or applicant to become an office-holder under, the authority.
- 2 Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority.
- 3 Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.
- 4 Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority.
- 5 Information relating to the adoption, care, fostering or education of any particular child or relating to the supervision or residence of any particular child in accordance with a supervision requirement made in respect of that child under the Social Work (Scotland) Act 1968.
- 6 Information relating to the financial or business affairs of any particular person (other than the authority).
- 7 Information relating to anything done or to be done in respect of any particular person for the purposes of any of the matters referred to in section 27(1) of the Social Work (Scotland) Act 1968 (providing reports on and supervision of certain persons).
- 8 The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.
- 9 Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.

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- 10 The identity of the authority (as well as of any other person, by virtue of paragraph 6 above) as the person offering any particular tender for a contract for the supply of goods or services.
- 11 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office-holders under, the authority.
- 12 Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with—
- (a) any legal proceedings by or against the authority, or
  - (b) the determination of any matter affecting the authority,
- (whether, in either case, proceedings have been commenced or are in contemplation).
- 13 Information which, if disclosed to the public, would reveal that the authority proposes—
- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
- 14 Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 15 The identity of a protected informant.

## PART II

### QUALIFICATIONS

- 1 Information relating to a person of a description specified in any of paragraphs 1 to 4 of Part I above is not exempt information by virtue of that paragraph unless it relates to a person of that description in the capacity indicated by the description.
- 2 Information falling within paragraph 6 of Part I above is not exempt information by virtue of that paragraph if it is required to be registered under—
- (a) the Companies Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) the Industrial and Provident Societies Acts 1965 to 1978; or
  - (d) the Building Societies Act 1962.
- 3 Information falling within paragraph 8 of Part I above is exempt information if and so long as disclosure to the public of the amount there referred to would be likely to give an advantage to a person entering into, or seeking to enter into, a contract with the authority in respect of the property, goods or services, whether the advantage would arise as against the authority or as against such other persons.
- 4 Information falling within paragraph 9 of Part I above is exempt information if and so long as disclosure to the public of the terms would prejudice the authority in those or any other negotiations concerning the property or goods or services.
- 5 Information falling within paragraph 11 of Part I above is exempt information if and so long as disclosure to the public of the information would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter arising as mentioned in that paragraph.

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- 6 Information falling within paragraph 13 of Part I above is exempt information if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.

### PART III

#### INTERPRETATION

- 1 (1) In this Schedule—
- “child” means a person under the age of eighteen years and any person who has attained that age and is in attendance as a pupil at a school;
  - “disposal” in relation to property, includes the granting of an interest in or right over it;
  - “employee” means a person employed under a contract of service;
  - “financial or business affairs” includes contemplated, as well as past or current, activities;
  - “labour relations matters” means—
    - (a) any of the matters specified in paragraphs (a) to (g) of section 29(1) of the Trade Union and Labour Relations Act 1974 (matters which may be the subject of a trade dispute, within the meaning of that Act); or
    - (b) any dispute about a matter falling within paragraph (a) above;
- and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;
- “office-holder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;
  - “protected informant” means a person giving the authority information which tends to show that—
    - (a) a criminal offence,
    - (b) a breach of statutory duty,
    - (c) a breach of planning control, as defined in section 84(2) of the Town and Country Planning (Scotland) Act 1972; or
    - (d) a nuisance,
- has been, is being or is about to be committed;
- “tender for a contract” includes a written statement prepared by the authority in pursuance of section 9(2) of the Local Government, Planning and Land Act 1980 (estimated cost of carrying out functional work by direct labour).
- (2) Any reference in this Schedule to “the authority” is a reference to the local authority or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference—
- (a) in the case of a local authority, to any committee or sub-committee of, or constituted by, the authority; and

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- (b) in the case of a committee or sub-committee, to—
- (i) any local authority of which it is a committee or sub-committee or by which it is constituted; and
  - (ii) any other committee or sub-committee of, or constituted by, that local authority or the committee in question;
- and for the purposes of this sub-paragraph a committee or sub-committee is "constituted" by a local authority if the authority is its constituent authority within the meaning of section 50E(3) above."

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**Commencement Orders yet to be applied to the Local Government (Access to Information) Act 1985**

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2009/2858 art. 3](#) commences (1996 c. 31)