

1990-91  
CHAPTER L-27.1

An Act respecting a right of access to documents of local authorities and a right of privacy with respect to personal information held by local authorities

(Assented to June 18, 1991)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

PART I

Short Title, Interpretation and Application

- Short title            1 This Act may be cited as The Local Authority Freedom of Information and Protection of Privacy Act.
- Interpretation  
“applicant”            2 In this Act:
- “commissioner”        (a) “applicant” means a person who makes an application for access to a record pursuant to section 6;
- “fiscal year”            (b) “commissioner” means the Information and Privacy Commissioner appointed pursuant to The Freedom of Information and Protection of Privacy Act;
- “government institution”    (c) “fiscal year” means the period commencing on April 1 in one year and ending on March 31 in the following year;
- “head”                    (d) “government institution” means a government institution as defined in The Freedom of Information and Protection of Privacy Act;
- (e) “head” means:
- (i) in the case of an urban, rural or northern municipality, the mayor, reeve or chairman of the local advisory committee, as the case may be; or
- (ii) in the case of any other local authority:
- (A) the chairperson of the governing body of the local authority; or
- (B) the individual designated as the head by the governing body of the local authority;
- “local authority”        (f) “local authority” means:
- (i) an urban municipality within the meaning of The Urban Municipality Act, 1984;
- (ii) a rural municipality within the meaning of The Rural Municipality Act, 1989;
- (iii) a northern municipality within the meaning of The Northern Municipalities Act;
- (iv) a committee of a council of a municipality within the meaning of The Urban Municipality Act, 1984, The Rural Municipality Act, 1989 or The Northern Municipalities Act, as the case may be;

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- (v) any board, commission or other body that:
  - (A) is appointed pursuant to The Urban Municipality Act, 1984, The Rural Municipality Act, 1989 or The Northern Municipalities Act;  
and
  - (B) is prescribed;
- (vi) the board of a public library within the meaning of The Public Libraries Act, 1984;
- (vii) the Northern Library Office established pursuant to The Public Libraries Act, 1984;
- (viii) a board of education within the meaning of The Education Act;
- (ix) a regional college within the meaning of The Regional Colleges Act, other than the Saskatchewan Indian Community College;
- (x) the Saskatchewan Institute of Applied Science and Technology;
- (xi) the University of Saskatchewan, including Saint Thomas More College;
- (xii) the University of Regina, including:
  - (A) Campion College; and
  - (B) Luther College with respect to its post-secondary level activities;
- (xiii) a hospital within the meaning of The Hospital Standards Act;
- (xiv) a district corporation within the meaning of The Home Care Act;
- (xv) a special-care home within the meaning of The Housing and Special-care Homes Act;
- (xvi) a board within the meaning of The Ambulance Act; or
- (xvii) any board, commission or other body that:
  - (A) receives more than 50% of its annual budget from the Government of Saskatchewan or a government institution; and
  - (B) is prescribed;

(g) "minister" means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

- (h) "personal information" means personal information within the meaning of section 23;
  - (i) "prescribed" means prescribed in the regulations;
  - (j) "record" means a record of information in any form and includes information that is written, photographed, recorded or stored in any manner, but does not include computer programs or other mechanisms that produce records;
  - (k) "third party" means a person, including an unincorporated entity, other than an applicant or a local authority.

3(1) This Act does not apply to:

- (a) published material or material that is available for purchase by the public;
- (b) material that is a matter of public record; or
- (c) material that is placed in the custody of a local authority by or on behalf of persons or organizations other than the local authority for archival purposes.

(2) This Act binds the Crown.

4 This Act:

- (a) complements and does not replace existing procedures for access to information or records in the possession or under the control of a local authority;
- (b) does not in any way limit access to the type of information or records that is normally available to the public;

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- (c) does not limit the information otherwise available by law to a party to litigation;
- (d) does not affect the power of any court or tribunal to compel a witness to testify or to compel the production of documents;
- (e) does not prevent access to a registry operated by a local authority where access to the registry is normally allowed to the public.

PART II

Access to Records

Right of access

5 Subject to this Act and the regulations, every person has a right to and, on an application made in accordance with this Part, shall be permitted access to records that are in the possession or under the control of a local authority.

Application

- 6(1) An applicant shall:
- (a) make the application in the prescribed form to the local authority in which the record containing the information is kept; and
  - (b) specify the subject matter of the record requested with sufficient particularity as to time, place and event to enable an individual familiar with the subject matter to identify the record.
- (2) Subject to subsection (4) and subsection 11(3), an application is deemed to be made when the application is received by the local authority to which it is directed.
- (3) Where the head is unable to identify the record requested, the head shall advise the applicant, and shall invite the applicant to supply additional details that might lead to identification of the record.
- (4) Where additional details are invited to be supplied pursuant to subsection (3), the application is deemed to be made when the record is identified.

Response required

- 7(1) Where an application is made pursuant to this Act for access to a record, the head of the local authority to which the application is made shall:
- (a) consider the application and give written notice to the applicant of the head's decision with respect to the application in accordance with subsection (2); or
  - (b) transfer the application to another local authority or to a government institution in accordance with section 11.
- (2) The head shall give written notice to the applicant within 30 days after the application is made:
- (a) stating that access to the record or part of it will be given on payment of the prescribed fee and setting out the place where, or manner in which, access will be available;
  - (b) if the record requested is published, referring the applicant to the publication;
  - (c) if the record is to be published within 90 days, informing the applicant of that fact and of the approximate date of publication;
  - (d) stating that access is refused, setting out the reason for the refusal and identifying the specific provision of this Act on which the refusal is based;
  - (e) stating that access is refused for the reason that the record does not exist; or
  - (f) stating that confirmation or denial of the existence of the record is refused pursuant to subsection (4).
- (3) A notice given pursuant to subsection (2) is to state that the applicant may request a review by the commissioner within one year after the notice is given.
- (4) Where an application is made with respect to a record that is exempt from access

pursuant to this Act, the head may refuse to confirm or deny that the record exists or ever did exist.

(5) A head who fails to give notice pursuant to subsection (2) is deemed to have given notice, on the last day of the period set out in that subsection, of a decision to refuse to give access to the record.

8 Where a record contains information to which an applicant is refused access, the head shall give access to as much of the record as can reasonably be severed without disclosing the information to which the applicant is refused access.

9(1) An applicant who is given notice pursuant to clause 7(2)(a) is entitled to obtain access to the record on payment of the prescribed fee.

(2) Where the amount of fees to be paid by an applicant for access to records is greater than a prescribed amount, the head shall give the applicant a reasonable estimate of the amount, and the applicant shall not be required to pay an amount greater than the estimated amount.

(3) Where an estimate is provided pursuant to subsection (2), the time within which the head is required to give written notice to the applicant pursuant to subsection 7(2) is suspended until the applicant notifies the head that the applicant wishes to proceed with the application.

(4) Where an estimate is provided pursuant to subsection (2), the head may require the applicant to pay a deposit of an amount that does not exceed one-half of the estimated amount before a search is commenced for the records for which access is sought.

(5) Where a prescribed circumstance exists, the head may waive payment of all or any part of the prescribed fee.

Manner of access

10(1) Where an applicant is entitled to access pursuant to subsection 9(1), the head shall provide the applicant with access to the record in accordance with this section.

(2) A head may give access to a record:

(a) by providing the applicant with a copy of the record; or

(b) where it is not reasonable to reproduce the record, by giving the applicant an opportunity to examine the record.

(3) A head may give access to a record that is a microfilm, film, sound recording, machine-readable record or other record of information stored by electronic means:

(a) by permitting the applicant to examine a transcript of the record;

(b) by providing the applicant with a copy of the transcript of the record; or

(c) in the case of a record produced for visual or aural reception, by permitting the applicant to view or hear the record or by providing the applicant with a copy of it.

Transfer of application

11(1) Where the head of the local authority to which an application is made considers that another local authority or a government institution has a greater interest in the record, the head:

(a) may, within 15 days after the application is made, transfer the application and, if necessary, the record to the other local authority or government institution; and

(b) if a record is transferred pursuant to clause (a), shall give written notice of the transfer and the date of the transfer to the applicant.

(2) For the purposes of this section, another local authority or a government institution has a greater interest in a record if:

(a) the record was originally prepared in or for the other local authority or the government institution; or

(b) the other local authority or the government institution was the first to obtain the record or a copy of the record.

(3) For the purposes of section 7 and section 7 of The Freedom of Information and Protection of Privacy Act, an application that is transferred pursuant to subsection (1) is deemed to have been made to the local authority or the government institution on the day of the transfer.

(4) Where the application is transferred to a government institution, The Freedom of Information and Protection of Privacy Act, and not this Act, applies to the application.

Extension of time

12(1) The head of a local authority may extend the period set out in section 7 or 11 for a reasonable period not exceeding 30 days:

(a) where:

(i) the application is for access to a large number of records or necessitates a search through a large number of records; or

(ii) there is a large number of requests;

and completing the work within the original period would unreasonably interfere with the operations of the local authority;

(b) where consultations that are necessary to comply with the application cannot reasonably be completed within the original period; or

(c) where a third party notice is required to be given pursuant to subsection 33(1).

(2) A head who extends a period pursuant to subsection (1) shall give notice of the extension to the applicant within 30 days after the application is made.

(3) Within the period of extension, the head shall give written notice to the applicant in accordance with section 7.

PART III  
Exemptions

Records from other governments

13(1) A head shall refuse to give access to information contained in a record that was obtained in confidence, implicitly or explicitly, from:

(a) the Government of Canada or its agencies, Crown corporations or other institutions;

(b) the Government of Saskatchewan or a government institution;

(c) the government of another province or territory of Canada, or its agencies, Crown corporations or other institutions;

(d) the government of a foreign jurisdiction or its institutions; or

(e) an international organization of states or its institutions;

unless the government or institution from which the information was obtained consents to the disclosure or makes the information public.

(2) A head may refuse to give access to information contained in a record that was obtained in confidence, implicitly or explicitly, from another local authority or a similar body in another province or territory of Canada.

Law enforcement and investigations

- 14(1) A head may refuse to give access to a record, the release of which could:
- (a) prejudice, interfere with or adversely affect the detection, investigation, prevention or prosecution of an offence or the security of a centre of lawful detention;
  - (b) be injurious to the enforcement of:
    - (i) an Act or a regulation;
    - (ii) an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada; or
    - (iii) a resolution or bylaw;
  - (c) interfere with a lawful investigation or disclose information with respect to a lawful investigation;
  - (d) be injurious to the local authority in the conduct of existing or anticipated legal proceedings;
  - (e) reveal investigative techniques or procedures currently in use or likely to be used;
  - (f) disclose the identity of a confidential source of information or disclose information furnished by that source with respect to a lawful investigation or a law enforcement matter;
  - (g) deprive a person of a fair trial or impartial adjudication;
  - (h) facilitate the escape from custody of an individual who is under lawful detention;
  - (i) reveal law enforcement intelligence information;
  - (j) facilitate the commission of an offence or tend to impede the detection of an offence;
  - (k) interfere with a law enforcement matter or disclose information respecting a law enforcement matter;
  - (l) reveal technical information relating to weapons or potential weapons; or
  - (m) reveal the security arrangements of particular vehicles, buildings or other structures or systems, including computer or communication systems, or methods employed to protect those vehicles, buildings, structures or systems.
- (2) Subsection (1) does not apply to a record that:
- (a) provides a general outline of the structure or programs of a law enforcement agency; or
  - (b) reports, by means of statistical analysis or otherwise, on the degree of success achieved in a law enforcement program.

Documents of a local authority

- 15(1) A head may refuse to give access to a record that:
- (a) contains a draft of a resolution or bylaw; or
  - (b) discloses agendas or the substance of deliberations of meetings of a local authority if:
    - (i) an Act authorizes holding the meetings in the absence of the public; or
    - (ii) the matters discussed at the meetings are of such a nature that access to the records could be refused pursuant to this Part or Part IV.
- (2) Subject to section 29, a head shall not refuse to give access pursuant to subsection (1) to a record where the record has been in existence for more than 25 years.

Advice from officials

- 16(1) Subject to subsection (2), a head may refuse to give access to a record that could

reasonably be expected to disclose:

- (a) advice, proposals, recommendations, analyses or policy options developed by or for the local authority;
  - (b) consultations or deliberations involving officers or employees of the local authority;
  - (c) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the local authority, or considerations that relate to those negotiations;
  - (d) plans that relate to the management of personnel or the administration of the local authority and that have not yet been implemented; or
  - (e) information, including the proposed plans, policies or projects of the local authority, the disclosure of which could reasonably be expected to result in disclosure of a pending policy or budgetary decision.
- (2) This section does not apply to a record that:
- (a) has been in existence for more than 25 years;
  - (b) is an official record that contains a statement of the reasons for a decision that is made in the exercise of a discretionary power or an adjudicative function;
  - (c) is the result of product or environmental testing carried out by or for a local authority, unless the testing was conducted:
    - (i) as a service to a person, a group of persons or an organization other than the local authority, and for a fee; or
    - (ii) as preliminary or experimental tests for the purpose of:
      - (A) developing methods of testing; or
      - (B) testing products for possible purchase;
  - (d) is a statistical survey;
  - (e) is the result of background research of a scientific or technical nature undertaken in connection with the formulation of a policy proposal; or



- (f) is:
- (i) an instruction or guide-line issued to the officers or employees of a local authority; or
  - (ii) a substantive rule or statement of policy that has been adopted by a local authority for the purpose of interpreting an Act, regulation, resolution or bylaw or administering a program or activity of the local authority.
- (3) A head may refuse to give access to any report, statement, memorandum, recommendation, document, information, data or record, within the meaning of section 35.1 of The Saskatchewan Evidence Act, that, pursuant to that section, is not admissible as evidence in any legal proceeding.

Economic and other interests

- 17(1) Subject to subsection (3), a head may refuse to give access to a record that could reasonably be expected to disclose:
- (a) trade secrets;
  - (b) financial, commercial, scientific, technical or other information:
    - (i) in which the local authority has a proprietary interest or a right of use; and
    - (ii) that has monetary value or is reasonably likely to have monetary value;
  - (c) scientific or technical information obtained through research by an employee of the local authority, the disclosure of which could reasonably be expected to deprive the employee of priority of publication;
  - (d) information, the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of the local authority;
  - (e) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the local authority, or considerations that relate to those negotiations;
  - (f) information, the disclosure of which could reasonably be expected to prejudice the economic interest of the local authority; or
  - (g) information, the disclosure of which could reasonably be expected to result in an undue benefit or loss to a person.
- (2) A head shall not refuse, pursuant to subsection (1), to give access to a record that contains the results of product or environmental testing carried out by or for the local authority, unless the testing was conducted:
- (a) as a service to a person, a group of persons or an organization other than the local authority, and for a fee; or
  - (b) as preliminary or experimental tests for the purpose of:
    - (i) developing methods of testing; or
    - (ii) testing products for possible purchase.
- (3) The head of the University of Saskatchewan, the University of Regina or a hospital may refuse to disclose details of the academic research being conducted by an employee of the university or hospital, as the case may be, in the course of the employee's employment.
- (4) Notwithstanding subsection (3), where possible, the head of the University of Saskatchewan, the University of Regina or a hospital shall disclose:
- (a) the title of; and
  - (b) the amount of funding being received with respect to;
- the academic research mentioned in subsection (3).

Third party information

18(1) Subject to Part V and this section, a head shall refuse to give access to a record that contains:

- (a) trade secrets of a third party;
- (b) financial, commercial, scientific, technical or labour relations information that is supplied in confidence, implicitly or explicitly, to the local authority by a third party;
- (c) information, the disclosure of which could reasonably be expected to:
  - (i) result in financial loss or gain to;
  - (ii) prejudice the competitive position of; or
  - (iii) interfere with the contractual or other negotiations of;a third party; or
- (d) a statement of a financial account relating to a third party with respect to the provision of routine services from a local authority.

(2) A head may give access to a record that contains information described in subsection (1) with the written consent of the third party to whom the information relates.

(3) Subject to Part V, a head may give access to a record that contains information described in clauses (1)(b) to (d) if:

- (a) disclosure of that information could reasonably be expected to be in the public interest as it relates to public health, public safety or protection of the environment; and
- (b) the public interest in disclosure could reasonably be expected to clearly outweigh in importance any:
  - (i) financial loss or gain to;
  - (ii) prejudice to the competitive position of; or
  - (iii) interference with contractual or other negotiations of;a third party.

Testing procedures, tests and audits

19 A head may refuse to give access to a record that contains information relating to:

- (a) testing or auditing procedures or techniques; or
- (b) details of specific tests to be given or audits to be conducted;

if disclosure could reasonably be expected to prejudice the use or results of particular tests or audits.

Danger to health or safety

20 A head may refuse to give access to a record if the disclosure could threaten the safety or the physical or mental health of an individual.

Solicitor-client privilege

- 21 A head may refuse to give access to a record that:
- (a) contains information that is subject to solicitor-client privilege;
  - (b) was prepared by or for legal counsel for the local authority in relation to a matter involving the provision of advice or other services by legal counsel; or
  - (c) contains correspondence between legal counsel for the local authority and any other person in relation to a matter involving the provision of advice or other services by legal counsel.

Confidentiality provisions in other enactments

- 22(1) Where a provision of:
- (a) any other Act;
  - (b) a regulation made pursuant to any other Act; or
  - (c) a resolution or bylaw;
- that restricts or prohibits access by any person to a record or information in the possession or under the control of a local authority conflicts with this Act or the regulations made pursuant to it, the provisions of this Act and the regulations made pursuant to it shall prevail.
- (2) Subject to subsection (3), subsection (1) applies notwithstanding any provision in the other Act, regulation, resolution or bylaw that states that the provision is to apply notwithstanding any other Act or law.
- (3) Subsection (1) does not apply to:
- (a) any prescribed Act or prescribed provisions of an Act; or
  - (b) any prescribed regulation or prescribed provisions of a regulation;
- and the provisions mentioned in clauses (a) and (b) shall prevail.

PART IV  
Protection of Privacy

Interpretation, "personal information"

- 23(1) Subject to subsection (2), "personal information" means personal information about an identifiable individual that is recorded in any form, and includes:
- (a) information that relates to the race, creed, religion, colour, sex, family status or marital status, disability, age, nationality, ancestry or place of origin of the individual;
  - (b) information that relates to the education or the criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
  - (c) information that relates to health care that has been received by the individual or to the health history of the individual;
  - (d) any identifying number, symbol or other particular assigned to the individual;
  - (e) the home or business address, home or business telephone number, fingerprints or blood type of the individual;
  - (f) the personal opinions or views of the individual except where they are about another individual;
  - (g) correspondence sent to a local authority by the individual that is implicitly or explicitly of a private or confidential nature, and replies to the correspondence that would reveal the content of the original correspondence, except where the correspondence contains the views or opinions of the individual with respect to another individual;
  - (h) the views or opinions of another individual with respect to the individual;

- (i) information that was obtained on a tax return or gathered for the purpose of collecting a tax;
  - (j) information that describes an individual's finances, assets, liabilities, net worth, bank balance, financial history or activities or credit worthiness; or
  - (k) the name of the individual where:
    - (i) it appears with other personal information that relates to the individual; or
    - (ii) the disclosure of the name itself would reveal personal information about the individual.
- (2) "Personal information" does not include information that discloses:
- (a) the classification, salary, discretionary benefits or employment responsibilities of an individual who is or was an officer or employee of a local authority;
  - (b) the personal opinions or views of an individual employed by a local authority given in the course of employment, other than personal opinions or views with respect to another individual;
  - (c) financial or other details of a contract for personal services;
  - (d) details of a licence, permit or other similar discretionary benefit granted to an individual by a local authority;
  - (e) details of a discretionary benefit of a financial nature granted to an individual by a local authority;
  - (f) expenses incurred by an individual travelling at the expense of a local authority;
  - (g) the academic ranks or departmental designations of members of the faculties of the University of Saskatchewan or the University of Regina; or
  - (h) the degrees, certificates or diplomas received by individuals from the Saskatchewan Institute of Applied Science and Technology, the University of Saskatchewan or the University of Regina.
- (3) Notwithstanding clauses (2)(d) and (e), "personal information" includes information that:
- (a) is supplied by an individual to support an application for a discretionary benefit; and
  - (b) is personal information within the meaning of subsection (1).

Purpose of information

24 No local authority shall collect personal information unless the information is collected for a purpose that relates to an existing or proposed program or activity of the local authority.

- Manner of collection      25(1) A local authority shall, where reasonably practicable, collect personal information directly from the individual to whom it relates.  
(2) A local authority that collects personal information that is required by subsection (1) to be collected directly from an individual shall, where reasonably practicable, inform the individual of the purpose for which the information is collected.  
(3) Subsections (1) and (2) do not apply where compliance with them might result in the collection of inaccurate information or defeat the purpose or prejudice the use for which the information is collected.
- Standard of accuracy      26 A local authority shall ensure that personal information being used by the local authority for an administrative purpose is as accurate and complete as is reasonably possible.
- Use of personal information      27 No local authority shall use personal information under its control without the consent, given in the prescribed manner, of the individual to whom the information relates, except:  
(a) for the purpose for which the information was obtained or compiled, or for a use that is consistent with that purpose; or  
(b) for a purpose for which the information may be disclosed to the local authority pursuant to subsection 28(2).
- Disclosure of personal information      28(1) No local authority shall disclose personal information in its possession or under its control without the consent, given in the prescribed manner, of the individual to whom the information relates except in accordance with this section or section 29.  
(2) Subject to any other Act or regulation, personal information in the possession or under the control of a local authority may be disclosed:  
(a) for the purpose for which the information was obtained or compiled by the local authority or for a use that is consistent with that purpose;  
(b) for the purpose of complying with:  
(i) a subpoena or warrant issued or order made by a court, person or body that has the authority to compel the production of information; or  
(ii) rules of court that relate to the production of information;  
(c) to the Attorney General for Saskatchewan or to his or her legal counsel for use in providing legal services to the Government of Saskatchewan or a government institution;  
(d) to legal counsel for a local authority for use in providing legal services to the local authority;  
(e) for the purpose of enforcing any legal right that the local authority has against any individual;

- (f) for the purpose of locating an individual in order to collect a debt owing to the local authority by that individual or make a payment owing to that individual by the local authority;
- (g) to a prescribed law enforcement agency or a prescribed investigative body:
  - (i) on the request of the law enforcement agency or investigative body;
  - (ii) for the purpose of enforcing a law of Canada or a province or territory or carrying out a lawful investigation; and
  - (iii) if any prescribed requirements are met;
- (h) pursuant to an agreement or arrangement between the local authority and:
  - (i) the Government of Canada or its agencies, Crown corporations or other institutions;
  - (ii) the Government of Saskatchewan or a government institution;
  - (iii) the government of another province or territory of Canada, or its agencies, Crown corporations or other institutions;
  - (iv) the government of a foreign jurisdiction or its institutions;
  - (v) an international organization of states or its institutions; or
  - (vi) another local authority;for the purpose of administering or enforcing any law or carrying out a lawful investigation;
- (i) for the purpose of complying with:
  - (i) an Act or a regulation;
  - (ii) an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada; or
  - (iii) a treaty, agreement or arrangement made pursuant to an Act or an Act of the Parliament of Canada;
- (j) where disclosure is by a law enforcement agency:
  - (i) to a law enforcement agency in Canada; or
  - (ii) to a law enforcement agency in a foreign country;pursuant to an arrangement, a written agreement or treaty or to legislative authority;
- (k) to any person or body for research or statistical purposes if the head:
  - (i) is satisfied that the purpose for which the information is to be disclosed is not contrary to the public interest and cannot reasonably be accomplished unless the information is provided in a form that would identify the individual to whom it relates; and

- (ii) obtains from the person or body a written agreement not to make a subsequent disclosure of the information in a form that could reasonably be expected to identify the individual to whom it relates;
- (l) where necessary to protect the mental or physical health or safety of any individual;
- (m) in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
- (n) for any purpose where, in the opinion of the head:
  - (i) the public interest in disclosure clearly outweighs any invasion of privacy that could result from the disclosure; or
  - (ii) disclosure would clearly benefit the individual to whom the information relates;
- (o) to the Government of Canada or the Government of Saskatchewan to facilitate the auditing of shared cost programs;
- (p) where the information is publicly available;
- (q) to the commissioner;
- (r) for any purpose in accordance with any Act or regulation that authorizes disclosure; or
- (s) as prescribed in the regulations.

#### Personal information of deceased individual

- 29(1) Subject to subsection (2) and to any other Act, the personal information of a deceased individual shall not be disclosed until 25 years after the death of the individual.
- (2) Where, in the opinion of the head, disclosure of the personal information of a deceased individual to the individual's next of kin would not constitute an unreasonable invasion of privacy, the head may disclose that personal information before 25 years have elapsed after the individual's death.

#### Individual's access to personal information

- 30(1) Subject to Part III and subsections (2) and (3), an individual whose personal information is contained in a record in the possession or under the control of a local authority has a right to, and:
- (a) on an application made in accordance with Part II; and
  - (b) on giving sufficient proof of his or her identity;
- shall be given access to the record.
- (2) A head may refuse to disclose to an individual personal information that is evaluative or opinion material compiled solely for the purpose of determining the individual's suitability, eligibility or qualifications for employment or for the awarding of contracts and other benefits by the local authority, where the information is provided explicitly or implicitly in confidence.
- (3) The head of the University of Saskatchewan or the University of Regina may refuse to disclose to an individual personal information that is evaluative or opinion material compiled solely for the purpose of:
- (a) determining the individual's suitability for:
    - (i) appointment, promotion or tenure as a member of the faculty of the University of Saskatchewan or the University of Regina;
    - (ii) admission to an academic program; or
    - (iii) receipt of an honour or award; or
  - (b) evaluating the individual's research projects or materials for publication; where the information is provided explicitly or implicitly in confidence.

- Right of correction
- 31(1) An individual who is given access to a record that contains personal information with respect to himself or herself is entitled:
- (a) to request correction of the personal information contained in the record if the person believes that there is an error or omission in it; or
  - (b) to require that a notation be made that a correction was requested but not made.
- (2) Within 30 days after a request pursuant to clause (1)(a) is received, the head shall advise the individual in writing that:
- (a) the correction has been made; or
  - (b) a notation pursuant to clause (1)(b) has been made.
- (3) Section 12 applies, with any necessary modification, to the extension of the period set out in subsection (2).

Privacy powers of commissioner

- 32 The commissioner may:
- (a) offer comment on the implications for privacy protection of proposed programs of local authorities;
  - (b) after hearing the head, recommend that a local authority:
    - (i) cease or modify a specified practice of collecting, using or disclosing information that contravenes this Act; and
    - (ii) destroy collections of personal information that is collected in contravention of this Act;
  - (c) in appropriate circumstances, authorize the collection of personal information in a manner other than directly from the individual to whom it relates;
  - (d) from time to time, carry out investigations with respect to personal information in the possession or under the control of local authorities to ensure compliance with this Part.

PART V

Third Party Intervention

Notice to third party

- 33(1) Where a head intends to give access to a record that the head has reason to believe may contain:
- (a) information described in subsection 18(1) that affects the interest of a third party; or
  - (b) personal information that may be disclosed pursuant to clause 28(2)(n) and that relates to a third party;
- and, in the opinion of the head, the third party can reasonably be located, the head shall give written notice to the third party in accordance with subsection (2).
- (2) The notice mentioned in subsection (1):
- (a) is to include:



- (i) a statement that:
    - (A) an application for access to a record described in subsection (1) has been made; and
    - (B) the head intends to give access to the record or to part of it;
  - (ii) a description of the record that the head has reason to believe may contain:
    - (A) information described in subsection 18(1) that affects the interest of the third party; or
    - (B) personal information that may be disclosed pursuant to clause 28(2)(n) and that relates to the third party; and
  - (iii) a statement that the third party may, within 20 days after the notice is given, make representations to the head as to why access to the record or part of the record should not be given; and
- (b) subject to subsection (3), is to be given within 30 days after the application is made.
- (3) Section 12 applies, with any necessary modification, to the extension of the period set out in clause (2)(b).
- (4) Where, in the opinion of the head, it is not reasonable to provide a notice to a third party pursuant to subsection (1), the head may dispense with the giving of notice.

Waiver of notice

- 34(1) A third party to whom a notice is required to be given pursuant to subsection 33(1) may waive the requirement for notice.
- (2) A third party who consents to the giving of access to a record containing information described in subsection 33(1) is deemed to have waived the requirement for notice.

Right to make representations

- 35(1) A third party who is given notice pursuant to subsection 33(1):
- (a) is entitled to make representations to the head as to why access to the record or part of the record should not be given; and
  - (b) within 20 days after the notice is given, shall be given the opportunity to make those representations.
- (2) Representations made by a third party pursuant to clause (1)(b) shall be made in writing unless the head waives that requirement, in which case they may be made orally.

Decision

- 36(1) After a third party has been given an opportunity to make representations pursuant to clause 35(1)(b), the head shall, within 30 days after the notice is given:
- (a) decide whether or not to give access to the record or part of the record; and

- (b) give written notice of the decision to the third party and the applicant.
- (2) A notice given pursuant to clause (1)(b) is to include:
  - (a) a statement that the third party and applicant are entitled to request a review pursuant to section 38 within 20 days after the notice is given; and
  - (b) in the case of a decision to give access, a statement that the applicant will be given access to the record or to the part of it specified unless, within 20 days after the notice is given, the third party requests a review pursuant to section 38.
- (3) Where, pursuant to clause (1)(a), the head decides to give access to the record or a specified part of it, the head shall give the applicant access to the record or the specified part unless, within 20 days after a notice is given pursuant to clause (1)(b), a third party requests a review pursuant to section 38.
- (4) A head who fails to give notice pursuant to clause (1)(b) is deemed to have given notice, on the last day of the period set out in subsection (1), of a decision to refuse to give access to the record.

## PART VI Review and Appeal

### Interpretation of Part, "court"

37 In this Part, "court" means Her Majesty's Court of Queen's Bench for Saskatchewan.

### Application for review

- 38(1) Where:
- (a) an applicant is not satisfied with the decision of a head pursuant to section 7, 12 or 36;
  - (b) a head fails to respond to an application for access to a record within the required time; or
  - (c) an applicant requests a correction of personal information pursuant to clause 31(1)(a) and the correction is not made;
- the applicant may apply in the prescribed form and manner to the commissioner for a review of the matter.
- (2) An applicant may make an application pursuant to subsection (1) within one year after being given written notice of the decision of the head or of the expiration of the time mentioned in clause (1)(b).
  - (3) A third party may apply in the prescribed form and manner to the commissioner for a review of a decision pursuant to section 36 to give access to a record that affects the interest of the third party.
  - (4) A third party may make an application pursuant to subsection (3) within 20 days after being given notice of the decision.

Review or refusal to review

39(1) Where the commissioner is satisfied that there are reasonable grounds to review any matter set out in an application pursuant to section 38, the commissioner shall review the matter.

(2) The commissioner may refuse to conduct a review or may discontinue a review if, in the opinion of the commissioner, the application for review:

- (a) is frivolous or vexatious;
- (b) is not made in good faith; or
- (c) concerns a trivial matter.

Notice of intention to review

40 Not less than 30 days before commencing a review, the commissioner shall inform the head of:

- (a) the commissioner's intention to conduct the review; and
- (b) the substance of the application for review.

Notice of application for review

41(1) A head who has refused an application for access to a record or part of a record shall, immediately on receipt of a notice of review pursuant to section 38 by an applicant, give written notice of the review to any third party that the head:

- (a) has notified pursuant to subsection 33(1); or
- (b) would have notified pursuant to subsection 33(1) if the head had intended to give access to the record or part of the record.

(2) A head shall, immediately on receipt of a notice of review pursuant to section 38 by a third party, give written notice of the review to the applicant.

Conduct of review

42(1) The commissioner shall conduct every review in private.

(2) The:

- (a) person who applies for a review;
- (b) third party or applicant who is entitled to notice pursuant to section 41; and
- (c) head whose decision is the subject of a review;

are entitled to make representations to the commissioner in the course of the review.

(3) No one is entitled as of right:

- (a) to be present during a review; or
- (b) before or after a review:
  - (i) to have access to; or
  - (ii) to comment on;

representations made to the commissioner by any other person.

Powers of commissioner

- 43(1) Notwithstanding any other Act or any privilege available at law, the commissioner may, in a review:
- (a) require to be produced and examine any record that is in the possession or under the control of a local authority; and
  - (b) enter and inspect any premises occupied by a local authority.
- (2) For the purposes of conducting a review, the commissioner may summon and enforce the appearance of persons before the commissioner and compel them:
- (a) to give oral or written evidence on oath or affirmation; and
  - (b) to produce any documents or things;
- that the commissioner considers necessary for a full review, in the same manner and to the same extent as the court.
- (3) For the purposes of subsection (2), the commissioner may administer an oath or affirmation.

Commissioner to report

- 44(1) On completing a review, the commissioner shall:
- (a) prepare a written report setting out the commissioner's recommendations with respect to the matter and the reasons for those recommendations; and
  - (b) forward a copy of the report to the head and:
    - (i) where the matter was referred to the commissioner by an applicant, to the applicant and to any third party notified by the head pursuant to section 41; and
    - (ii) where the matter was referred to the commissioner by a third party, to the third party and to the applicant.
- (2) In the report, the commissioner may make any recommendations with respect to the matter under review that the commissioner considers appropriate.

Decision of head

- 45 Within 30 days after receiving a report of the commissioner pursuant to subsection 44(1), a head shall:
- (a) make a decision to follow the recommendation of the commissioner or any other decision that the head considers appropriate; and
  - (b) give written notice of the decision to the commissioner and the persons mentioned in clause 44(1)(b).

Appeal to court

- 46(1) Within 30 days after receiving a decision of the head pursuant to section 45 that access is granted or refused, an applicant or a third party may appeal that decision to the court.
- (2) A head who has refused an application for access to a record or part of a record shall, immediately on receipt of a notice of appeal by an applicant, give written notice of the appeal to any third party that the head:

- (a) has notified pursuant to subsection 33(1); or
  - (b) would have notified pursuant to subsection 33(1) if the head had intended to give access to the record or part of the record.
- (3) A head who has granted an application for access to a record or part of a record shall, immediately on receipt of a notice of appeal by a third party, give written notice of the appeal to the applicant.
- (4) A third party who has been given notice of an appeal pursuant to subsection (2) or an applicant who has been given notice of an appeal pursuant to subsection (3) may appear as a party to the appeal.
- (5) The commissioner shall not be a party to an appeal.

#### Powers of court on appeal

- 47(1) On an appeal, the court:
- (a) shall determine the matter de novo; and
  - (b) may examine any record in camera in order to determine on the merits whether the information in the record may be withheld pursuant to this Act.
- (2) Notwithstanding any other Act or any privilege that is available at law, the court may, on an appeal, examine any record in the possession or under the control of a local authority and no information shall be withheld from the court on any grounds.
- (3) The court shall take every reasonable precaution, including, where appropriate, receiving representations ex parte and conducting hearings in camera, to avoid disclosure by the court or any person of:
- (a) any information or other material if the nature of the information or material could justify a refusal by a head to give access to a record or part of a record; or
  - (b) any information as to whether a record exists if the head, in refusing to give access, does not indicate whether the record exists.
- (4) The court may disclose to the Attorney General for Saskatchewan or the Attorney General of Canada information that relates to the commission of an offence against:
- (a) an Act or a regulation; or
  - (b) an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada;
- by an officer or employee of a local authority if, in the opinion of the court, there is evidence of the commission of the offence.
- (5) Where a head has refused to give access to a record or part of it, the court, if it determines that the head is not authorized to refuse to give access to the information or part of it, shall:
- (a) order the head to give the applicant access to the record or part of it, subject to any conditions that the court considers appropriate; or
  - (b) make any other order that the court considers appropriate.

(6) Where the court finds that a record falls within an exemption, the court shall not order the head to give the applicant access to the record, regardless of whether the exemption requires or merely authorizes the head to refuse to give access to the record.

## PART VII

### General

#### Certain provisions adopted

48 Subsection 43(1), sections 45 to 47 and subsection 66(3) of The Freedom of Information and Protection of Privacy Act are adopted, with any necessary modification, for the purposes of this Act.

#### Exercise of rights by other persons

49 Any right or power conferred on an individual by this Act may be exercised:

- (a) where the individual is deceased, by the individual's personal representative if the exercise of the right or power relates to the administration of the individual's estate;
- (b) where a personal guardian or property guardian has been appointed for the individual, by the guardian if the exercise of the right or power relates to the powers and duties of the guardian;
- (c) where a power of attorney has been granted, by the attorney if the exercise of the right or power relates to the powers and duties of the attorney conferred by the power of attorney;
- (d) where the individual is less than 18 years of age, by the individual's legal custodian in situations where, in the opinion of the head, the exercise of the right or power would not constitute an unreasonable invasion of the privacy of the individual; or
- (e) by any person with written authorization from the individual to act on the individual's behalf.

#### Delegation

50(1) A head may delegate to one or more officers of the local authority a power granted to the head or a duty vested in the head.

(2) A delegation pursuant to subsection (1):

- (a) is to be in writing; and
- (b) may contain any limitations, restrictions, conditions or requirements that the head considers necessary.

#### Burden of proof

51 In any proceeding pursuant to this Act, the burden of establishing that access to the record applied for may or must be refused or granted is on the head concerned.

#### Annual report

52(1) Within three months after the end of each fiscal year, the commissioner shall prepare and submit an annual report to the Speaker of the Assembly, and the Speaker shall cause the report to be laid before the Assembly in accordance with The Tabling of Documents Act.

(2) The annual report of the commissioner is to provide details of the activities of the office in relation to the commissioner's responsibilities pursuant to this Act during that fiscal year and, in particular, concerning any instances where the commissioner's recommendations made after a review have not been complied with.

Directory

53(1) The minister may cause to be produced, and updated as reasonably required, a directory containing:

- (a) a list of all local authorities; and
- (b) with respect to each local authority, the place at which applications for access to records should be made.

(2) The minister may require local authorities to produce any materials necessary to enable the minister to fulfil the requirements of this section.

Proceedings prohibited

54(1) No proceeding lies or shall be instituted against a local authority or the head or other officer or employee of a local authority for:

- (a) the giving or withholding in good faith of access to any record pursuant to this Act;
- (b) any consequences that flow from the giving or withholding of access mentioned in clause (a); or
- (c) the failure to give any notice required pursuant to this Act, if reasonable care is taken to give the required notice.

(2) For the purposes of clause (1)(c), reasonable care is deemed to have been taken if notice required to be sent to an applicant is sent to the address of the applicant given on the prescribed application form.

Immunity from prosecution

55 No person is liable to prosecution for an offence against any Act, regulation, resolution or bylaw by reason of that person's compliance with a requirement of the commissioner pursuant to this Act.

Offence

56(1) Every person who knowingly collects, uses or discloses personal information in contravention of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000, to imprisonment for not more than three months or to both fine and imprisonment.

(2) No proceeding shall be instituted pursuant to subsection (1) except with the consent of the Attorney General.

(3) Any person who:

- (a) without lawful justification or excuse wilfully obstructs, hinders or resists the commissioner or any other person in the exercise of the powers, performance of the duties or the carrying out of the functions of the commissioner or other person pursuant to this Act;

(b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the commissioner or any other person pursuant to this Act; or

(c) wilfully makes any false statement to, or misleads or attempts to mislead, the commissioner or any other person in the exercise of the powers, performance of the duties or carrying out of the functions of the commissioner or other person pursuant to this Act;

is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000, to imprisonment for not more than three months or to both fine and imprisonment.

#### Regulations

57 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any term used in this Act but not defined in this Act;
- (b) for the purposes of clause 2(f), prescribing boards, commissions or other bodies to be local authorities;
- (c) prescribing procedures to be followed within local authorities in taking and processing applications for access;
- (d) prescribing fees to be paid pursuant to this Act;
- (e) for the purposes of subsection 9(2), prescribing an amount of fees in excess of which an estimate is required to be given;
- (f) for the purposes of subsection 9(5), prescribing circumstances in which a head may waive the payment of all or any part of a prescribed fee;
- (g) exempting from the application of this Act provisions of Acts or regulations that restrict or prohibit access to records of local authorities;
- (h) for the purposes of clause 28(2)(g):
  - (i) prescribing law enforcement agencies and investigative bodies;
  - (ii) prescribing requirements to be met with respect to disclosures of information to law enforcement agencies or investigative bodies;
- (i) for the purposes of clause 28(2)(s), prescribing:
  - (i) purposes for which personal information may be disclosed;
  - (ii) circumstances in which personal information may be disclosed;
  - (iii) persons to whom personal information may be disclosed;
- (j) prescribing manners in which the consent of an individual may be given;
- (k) prescribing the manner in which persons may apply to the commissioner for a review;
- (l) prescribing any matter that is to be included in a notice that is required by this Act;
- (m) prescribing forms for the purposes of this Act;
- (n) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;
- (o) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

#### Coming into force

58 This Act or any provision of this Act comes into force on a day or days to be fixed by proclamation of the Lieutenant Governor.