
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends section 57(1) of the Freedom of Information (Scotland) 2002 Act (“the Act”) to make alterations to the definition of when a record containing information becomes a historical record for the purposes of that Act.

Following the amendment of the order-making power in section 59 of the Act by the Freedom of Information (Amendment) (Scotland) Act 2013, the Scottish Ministers may make different provision for records of different descriptions, exemptions of different kinds and different purposes in other respects when using that power to amend section 57(1) of the Act.

The general definition of when a record becomes a historical record for the purposes of the Act is amended from 30 to 15 years.

Records which contain information which would be exempt under section 36 of the Act become a historical record 30 years after the beginning of the year following the year in which the record was created.

Records which contain communications with Her Majesty, a member of the Royal Family or the Royal Household become historical records either 5 years after the death of the person or 20 years after the date when the record was created (whichever is later).

The amendments regarding communications with Her Majesty, the Royal Family or the Royal Household mirror amendments made to the Freedom of Information Act 2000 by the Constitutional Reform and Governance Act 2010.