

EXPLANATORY MEMORANDUM TO
THE PUBLIC RECORDS (DESIGNATION OF BODIES) ORDER 2009

No . 1744

1. This explanatory memorandum has been prepared by The National Archives and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument will ensure that the administrative and departmental records of: The Arts and Humanities Research Council, The Economic and Social Research Council, The Engineering and Physical Sciences Research Council, The Medical Research Council and The Natural Environment Research Council (“the Councils”) will be public records for the purpose of the Public Records Act 1958.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 This Order is being made to add the Councils to the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (c. 51). This will have the effect of making the Councils’ administrative and departmental records public records.

4.2 Before an Order such as this may be made one of two preconditions must be satisfied (as set out in paragraph 3A(1) of Schedule 1 to the 1958 Act). One is that the body in question is specified in Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13) (which sets out the bodies subject to investigation by the Parliamentary Commissioner for Administration). The Councils satisfy this precondition.

4.3 The Arts and Humanities Research Council was established in April 2005 by virtue of an Order in Council under the Higher Education Act 2004 as a body incorporated by Royal Charter.

The Economic and Social Research Council was established in 1965 by Royal Charter as the Social Science Research Council, it was re-structured in 1983 and renamed as the Economic and Social Research Council.

The Engineering and Physical Sciences Research Council was created in 1994 and was formerly part of the Science and Engineering Research Council. The Science and

Engineering Research Council, previously called the Science Research Council, was established by Royal Charter in 1965.

The Medical Research Council was established in 1913 as the Medical Research Committee to administer public funds for medical research, the Medical Research Council was incorporated under its present title by Royal Charter under the terms of the Ministry of Health Act of 1919, on 1 April 1920. The Medical Research Council's Royal Charter and mission were last amended in 2003.

The Natural Environmental Research Council was established by Royal Charter in 1965.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Michael Wills has made the following statement regarding Human Rights:

In my view the provisions of The Public Records (Designation of Bodies) Order 2009 are compatible with the Convention rights.

7. Policy background

- *What is being done and why*

7.1 Under public records legislation (The Public Records Act 1958) government departments, agencies and non departmental public bodies are responsible for making arrangements for selecting those records which ought to be permanently preserved. These arrangements are carried out under the guidance of the Keeper of Public Records (on behalf of the Lord Chancellor) who is responsible for coordinating and supervising the work of selection and for setting standards and supporting innovation in information and records management. Records which are selected for permanent preservation are transferred to The National Archives.

7.2 This instrument will bring the records of the Councils within the scope of public records legislation. It will have the effect of ensuring that the Councils have in place appropriate procedures for managing and appraising their records and information. The Councils are public bodies which invest in scientific and other research in order to advance our knowledge and train scientists, engineers and historians to contribute to the economic competitiveness and intellectual capital of the country and support our quality of life. As a result it has a part in fulfilling the National Archives Acquisition Strategy and Acquisition Criteria by ensuring that those records of the Councils which document the principal deliberations, decisions and actions of UK government and associated bodies are permanently preserved. They will form a research resource for future generations.

8. Consultation outcome

8.1 Each of the Councils has agreed to their organisation being made a public record body and has agreed that they will meet the obligations under the public records legislation.

9. Guidance

9.1 The National Archives has been and will be in discussion with each of the Councils to ensure that they each understand their obligations under the public records legislation.

10. Impact

10.1 The impact on business, charities or voluntary bodies is considered to be minimal.

10.2 An Impact Assessment has therefore not been prepared for this instrument.

11. Regulating Small Business

11.1 The legislation does not apply to small business.

12. Monitoring and Review

12.1 The Public Records Act 1958 places the responsibility on government departments and other organisations within the scope of the Act for selecting those of their records which ought to be permanently preserved and for keeping them in proper conditions (s.3(1)). It further requires these arrangements to be carried out under the guidance of the Keeper of Public Records, who is responsible for co-ordinating and supervising the work of selection (s.3(2)).

As public records bodies the councils will receive ongoing guidance and supervision from The National Archives on good records and information management.

13. Contact

Graham Stanley at The National Archives Tel: 020 9392 5330 x 2406 or email: graham.stanley@nationalarchives.gsi.gov.uk can answer any queries regarding the instrument.