



# Freedom of Information Act 2000

## 2000 CHAPTER 36

### PART I

#### ACCESS TO INFORMATION HELD BY PUBLIC AUTHORITIES

##### *Right to information*

#### **1 General right of access to information held by public authorities.**

- (1) Any person making a request for information to a public authority is entitled—
  - (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
  - (b) if that is the case, to have that information communicated to him.
- (2) Subsection (1) has effect subject to the following provisions of this section and to the provisions of sections 2, 9, 12 and 14.
- (3) Where a public authority—
  - (a) reasonably requires further information in order to identify and locate the information requested, and
  - (b) has informed the applicant of that requirement,the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.
- (4) The information—
  - (a) in respect of which the applicant is to be informed under subsection (1)(a), or
  - (b) which is to be communicated under subsection (1)(b),is the information in question held at the time when the request is received, except that account may be taken of any amendment or deletion made between that time and the time when the information is to be communicated under subsection (1)(b), being an amendment or deletion that would have been made regardless of the receipt of the request.

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*Changes to legislation: Freedom of Information Act 2000, Part I is up to date with all changes known to be in force on or before 22 May 2024. 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)*

- (5) A public authority is to be taken to have complied with subsection (1)(a) in relation to any information if it has communicated the information to the applicant in accordance with subsection (1)(b).
- (6) In this Act, the duty of a public authority to comply with subsection (1)(a) is referred to as “the duty to confirm or deny”.

## 2 Effect of the exemptions in Part II.

- (1) Where any provision of Part II states that the duty to confirm or deny does not arise in relation to any information, the effect of the provision is that where either—
  - (a) the provision confers absolute exemption, or
  - (b) in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the public authority holds the information,
 section 1(1)(a) does not apply.
- (2) In respect of any information which is exempt information by virtue of any provision of Part II, section 1(1)(b) does not apply if or to the extent that—
  - (a) the information is exempt information by virtue of a provision conferring absolute exemption, or
  - (b) in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- (3) For the purposes of this section, the following provisions of Part II (and no others) are to be regarded as conferring absolute exemption—
  - (a) section 21,
  - (b) section 23,
  - (c) section 32,
  - (d) section 34,
  - (e) section 36 so far as relating to information held by the House of Commons or the House of Lords,
  - (f) in section 40—
    - (i) subsection (1), and
    - (ii) subsection (2) so far as relating to cases where the first condition referred to in that subsection is satisfied by virtue of subsection (3)(a)(i) or (b) of that section,
  - (g) section 41, and
  - (h) section 44.

## 3 Public authorities.

- (1) In this Act “public authority” means—
  - (a) subject to section 4(4), any body which, any other person who, or the holder of any office which—
    - (i) is listed in Schedule 1, or
    - (ii) is designated by order under section 5, or
  - (b) a publicly-owned company as defined by section 6.
- (2) For the purposes of this Act, information is held by a public authority if—

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- (a) it is held by the authority, otherwise than on behalf of another person, or
- (b) it is held by another person on behalf of the authority.

**Modifications etc. (not altering text)**

- C1** S. 3 modified (29.9.2008 at 8.00 a.m.) by The Bradford & Bingley plc [Transfer of Securities and Property etc. Order 2008 \(S.I. 2008/2546\)](#), **art. 41**
- C2** S. 3 modified (7.10.2008 at 9.30 a.m.) by The Heritable Bank plc [Transfer of Certain Rights and Liabilities Order 2008 \(S.I. 2008/2644\)](#), **art. 29**
- C3** S. 3(1)(b) modified (30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order ([S.I. 2009/814](#)), {art. 8(1)(a)(2)}
- C4** S. 3(1)(b) modified (22.2.2008) by The Northern Rock plc [Transfer Order 2008 \(S.I. 2008/432\)](#), **art. 18(2)(a)**
- C5** S. 3(2)(b) modified (30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order ([S.I. 2009/814](#)), {art. 8(1)(b)(2)}
- C6** S. 3(2)(b) modified (8.10.2008 at 12.15 p.m.) by The Kaupthing Singer & Friedlander Limited [Transfer of Certain Rights and Liabilities Order 2008 \(S.I. 2008/2674\)](#), **art. 31**
- C7** S. 3(2)(b) modified (22.2.2008) by The Northern Rock plc [Transfer Order 2008 \(S.I. 2008/432\)](#), **art. 18(2)(b)**

**4 Amendment of Schedule 1.**

- (1) The [<sup>F1</sup>Secretary of State] may by order amend Schedule 1 by adding to that Schedule a reference to any body or the holder of any office which (in either case) is not for the time being listed in that Schedule but as respects which both the first and the second conditions below are satisfied.
- (2) The first condition is that the body or office—
  - (a) is established by virtue of Her Majesty’s prerogative or by an enactment or by subordinate legislation, or
  - (b) is established in any other way by a Minister of the Crown in his capacity as Minister, by a government department or by [<sup>F2</sup>the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government].
- (3) The second condition is—
  - (a) in the case of a body, that the body is wholly or partly constituted by appointment made by the Crown, by a Minister of the Crown, by a government department or by [<sup>F3</sup>the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government], or
  - (b) in the case of an office, that appointments to the office are made by the Crown, by a Minister of the Crown, by a government department or by [<sup>F3</sup>the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government].
- (4) If either the first or the second condition above ceases to be satisfied as respects any body or office which is listed in Part VI or VII of Schedule 1, that body or the holder of that office shall cease to be a public authority by virtue of the entry in question.
- (5) The [<sup>F1</sup>Secretary of State] may by order amend Schedule 1 by removing from Part VI or VII of that Schedule an entry relating to any body or office—
  - (a) which has ceased to exist, or

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- (b) as respects which either the first or the second condition above has ceased to be satisfied.
- (6) An order under subsection (1) may relate to a specified person or office or to persons or offices falling within a specified description.
- (7) Before making an order under subsection (1), the [<sup>F1</sup>Secretary of State] shall—
- (a) if the order adds to Part II, III, IV or VI of Schedule 1 a reference to—
- (i) a body whose functions are exercisable only or mainly in or as regards Wales, or
- (ii) the holder of an office whose functions are exercisable only or mainly in or as regards Wales,
- consult [<sup>F4</sup>the Welsh Ministers], and
- (b) if the order relates to a body which, or the holder of any office who, if the order were made, would be a Northern Ireland public authority, consult the First Minister and deputy First Minister in Northern Ireland.
- (8) This section has effect subject to section 80.
- (9) In this section “Minister of the Crown” includes a Northern Ireland Minister.

#### Textual Amendments

- F1** Words in s. 4 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 12(1)(a)**
- F2** Words in s. 4(2)(b) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 78(2)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see [ss. 46, 161\(5\) of Government of Wales Act 2006 \(c. 32\)](#))
- F3** Words in s. 4(3)(a)(b) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 78(3)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see [ss. 46, 161\(5\) of Government of Wales Act 2006 \(c. 32\)](#))
- F4** Words in s. 4(7)(a)(ii) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 78(4)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see [ss. 46, 161\(5\) of Government of Wales Act 2006 \(c. 32\)](#))

## 5 Further power to designate public authorities.

- (1) The [<sup>F5</sup>Secretary of State] may by order designate as a public authority for the purposes of this Act any person who is neither listed in Schedule 1 nor capable of being added to that Schedule by an order under section 4(1), but who—
- (a) appears to the Secretary of State to exercise functions of a public nature, or
- (b) is providing under a contract made with a public authority any service whose provision is a function of that authority.
- (2) An order under this section may designate a specified person or office or persons or offices falling within a specified description.

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- (3) Before making an order under this section, the [<sup>F5</sup>Secretary of State] shall consult every person to whom the order relates, or persons appearing to him to represent such persons.
- (4) This section has effect subject to section 80.

#### Textual Amendments

**F5** Words in s. 5 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, [Sch. 2 para. 12\(1\)\(a\)](#)

## 6 Publicly-owned companies.

- (1) A company is a “publicly-owned company” for the purposes of section 3(1)(b) if—
  - (a) it is wholly owned by the Crown, or
  - (b) it is wholly owned by any public authority listed in Schedule 1 other than—
    - (i) a government department, or
    - (ii) any authority which is listed only in relation to particular information.
- (2) For the purposes of this section—
  - (a) a company is wholly owned by the Crown if it has no members except—
    - (i) Ministers of the Crown, government departments or companies wholly owned by the Crown, or
    - (ii) persons acting on behalf of Ministers of the Crown, government departments or companies wholly owned by the Crown, and
  - (b) a company is wholly owned by a public authority other than a government department if it has no members except—
    - (i) that public authority or companies wholly owned by that public authority, or
    - (ii) persons acting on behalf of that public authority or of companies wholly owned by that public authority.
- (3) In this section—

“company” includes any body corporate;

“Minister of the Crown” includes a Northern Ireland Minister.

## 7 Public authorities to which Act has limited application.

- (1) Where a public authority is listed in Schedule 1 only in relation to information of a specified description, nothing in Parts I to V of this Act applies to any other information held by the authority.
- (2) An order under section 4(1) may, in adding an entry to Schedule 1, list the public authority only in relation to information of a specified description.
- (3) The [<sup>F6</sup>Secretary of State] may by order amend Schedule 1—
  - (a) by limiting to information of a specified description the entry relating to any public authority, or
  - (b) by removing or amending any limitation to information of a specified description which is for the time being contained in any entry.

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- (4) Before making an order under subsection (3), the [<sup>F6</sup>Secretary of State] shall—
- [<sup>F7</sup>(a) if the order relates to the National Assembly for Wales or a Welsh public authority referred to in section 83(1)(b)(ii) (subsidiary of the Assembly Commission), consult the Presiding Officer of the National Assembly for Wales,
  - (aa) if the order relates to the Welsh Assembly Government or a Welsh public authority other than one referred to in section 83(1)(b)(ii), consult the First Minister for Wales,]
  - (b) if the order relates to the Northern Ireland Assembly, consult the Presiding Officer of that Assembly, and
  - (c) if the order relates to a Northern Ireland department or a Northern Ireland public authority, consult the First Minister and deputy First Minister in Northern Ireland.
- (5) An order under section 5(1)(a) must specify the functions of the public authority designated by the order with respect to which the designation is to have effect; and nothing in Parts I to V of this Act applies to information which is held by the authority but does not relate to the exercise of those functions.
- (6) An order under section 5(1)(b) must specify the services provided under contract with respect to which the designation is to have effect; and nothing in Parts I to V of this Act applies to information which is held by the public authority designated by the order but does not relate to the provision of those services.
- (7) Nothing in Parts I to V of this Act applies in relation to any information held by a publicly-owned company which is excluded information in relation to that company.
- (8) In subsection (7) “excluded information”, in relation to a publicly-owned company, means information which is of a description specified in relation to that company in an order made by the [<sup>F6</sup>Secretary of State] for the purposes of this subsection.
- (9) In this section “publicly-owned company” has the meaning given by section 6.

#### Textual Amendments

- F6** Words in s. 7 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 12(1)(a)**
- F7** S. 7(4)(a)(aa) substituted for s. 7(4)(a) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 79** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see [ss. 46, 161\(5\) of Government of Wales Act 2006 \(c. 32\)](#))

## 8 Request for information.

- (1) In this Act any reference to a “request for information” is a reference to such a request which—
- (a) is in writing,
  - (b) states the name of the applicant and an address for correspondence, and
  - (c) describes the information requested.

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- (2) For the purposes of subsection (1)(a), a request is to be treated as made in writing where the text of the request—
- (a) is transmitted by electronic means,
  - (b) is received in legible form, and
  - (c) is capable of being used for subsequent reference.

## 9 Fees.

- (1) A public authority to whom a request for information is made may, within the period for complying with section 1(1), give the applicant a notice in writing (in this Act referred to as a “fees notice”) stating that a fee of an amount specified in the notice is to be charged by the authority for complying with section 1(1).
- (2) Where a fees notice has been given to the applicant, the public authority is not obliged to comply with section 1(1) unless the fee is paid within the period of three months beginning with the day on which the fees notice is given to the applicant.
- (3) Subject to subsection (5), any fee under this section must be determined by the public authority in accordance with regulations made by the [<sup>F8</sup>Secretary of State].
- (4) Regulations under subsection (3) may, in particular, provide—
- (a) that no fee is to be payable in prescribed cases,
  - (b) that any fee is not to exceed such maximum as may be specified in, or determined in accordance with, the regulations, and
  - (c) that any fee is to be calculated in such manner as may be prescribed by the regulations.
- (5) Subsection (3) does not apply where provision is made by or under any enactment as to the fee that may be charged by the public authority for the disclosure of the information.

### Textual Amendments

- F8** Words in s. 9 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, [Sch. 2 para. 12\(1\)\(a\)](#)

### Commencement Information

- II** [S. 9](#) wholly in force at 1.1.2005; [s. 9](#) in force at Royal Assent to the extent that it confers power to make regulations, see [s. 87\(1\)\(m\)\(3\)](#); [s. 9](#) otherwise in force at 1.1.2005 by [S.I. 2004/3122](#), [art. 2](#)

## 10 Time for compliance with request.

- (1) Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
- (2) Where the authority has given a fees notice to the applicant and the fee is paid in accordance with section 9(2), the working days in the period beginning with the day on which the fees notice is given to the applicant and ending with the day on which the fee is received by the authority are to be disregarded in calculating for the purposes of subsection (1) the twentieth working day following the date of receipt.

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- (3) If, and to the extent that—
- (a) section 1(1)(a) would not apply if the condition in section 2(1)(b) were satisfied, or
  - (b) section 1(1)(b) would not apply if the condition in section 2(2)(b) were satisfied,
- the public authority need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances; but this subsection does not affect the time by which any notice under section 17(1) must be given.
- (4) The [<sup>F9</sup>Secretary of State] may by regulations provide that subsections (1) and (2) are to have effect as if any reference to the twentieth working day following the date of receipt were a reference to such other day, not later than the sixtieth working day following the date of receipt, as may be specified in, or determined in accordance with, the regulations.
- (5) Regulations under subsection (4) may—
- (a) prescribe different days in relation to different cases, and
  - (b) confer a discretion on the Commissioner.
- (6) In this section—
- “the date of receipt” means—
- (a) the day on which the public authority receives the request for information, or
  - (b) if later, the day on which it receives the information referred to in section 1(3);
- “working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the <sup>M1</sup>Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

#### Textual Amendments

- F9** Words in s. 10 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 12(1)(a)**

#### Modifications etc. (not altering text)

- C8** S. 10(1)(2) modified (1.1.2005) by [The Freedom of Information \(Time for Compliance with Request\) Regulations 2004 \(S.I. 2004/3364\)](#), **regs. 3(2), 4(2), 5(2), 6(2)**
- C9** S. 10(1)(2) modified (26.6.2009) by [The Freedom of Information \(Time for Compliance with Request\) Regulations 2009 \(S.I. 2009/1369\)](#), **reg. 2(2)**
- C10** S. 10(1)(2) modified (18.11.2010) by [The Freedom of Information \(Time for Compliance with Request\) Regulations 2010 \(S.I. 2010/2768\)](#), **regs. 1(2), 2**

#### Commencement Information

- I2** S. 10 wholly in force at 1.1.2005; s. 10 in force at Royal Assent to the extent that it confers power to make regulations, see s. 87(1)(m)(3); s. 10 otherwise in force at 1.1.2005 by [S.I. 2004/3122](#), **art. 2**

#### Marginal Citations

- M1** 1971 c. 80.



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## **11 Means by which communication to be made.**

- (1) Where, on making his request for information, the applicant expresses a preference for communication by any one or more of the following means, namely—
  - (a) the provision to the applicant of a copy of the information in permanent form or in another form acceptable to the applicant,
  - (b) the provision to the applicant of a reasonable opportunity to inspect a record containing the information, and
  - (c) the provision to the applicant of a digest or summary of the information in permanent form or in another form acceptable to the applicant,the public authority shall so far as reasonably practicable give effect to that preference.
- (2) In determining for the purposes of this section whether it is reasonably practicable to communicate information by particular means, the public authority may have regard to all the circumstances, including the cost of doing so.
- (3) Where the public authority determines that it is not reasonably practicable to comply with any preference expressed by the applicant in making his request, the authority shall notify the applicant of the reasons for its determination.
- (4) Subject to subsection (1), a public authority may comply with a request by communicating information by any means which are reasonable in the circumstances.

## **12 Exemption where cost of compliance exceeds appropriate limit.**

- (1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.
- (2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.
- (3) In subsections (1) and (2) “the appropriate limit” means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.
- (4) The [<sup>F10</sup>Secretary of State] may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority—
  - (a) by one person, or
  - (b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.
- (5) The [<sup>F10</sup>Secretary of State] may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.

### **Textual Amendments**

**F10** Words in s. 12 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, [Sch. 2 para. 12\(1\)\(a\)](#)

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#### Commencement Information

- I3** S. 12 wholly in force at 1.1.2005; s. 12 in force at Royal Assent to the extent that it confers power to make regulations, see s. 87(1)(m)(3); s. 12 otherwise in force at 1.1.2005 by S.I. 2004/3122, art. 2

### 13 Fees for disclosure where cost of compliance exceeds appropriate limit.

- (1) A public authority may charge for the communication of any information whose communication—
- (a) is not required by section 1(1) because the cost of complying with the request for information exceeds the amount which is the appropriate limit for the purposes of section 12(1) and (2), and
  - (b) is not otherwise required by law,
- such fee as may be determined by the public authority in accordance with regulations made by the [<sup>F11</sup>Secretary of State] .
- (2) Regulations under this section may, in particular, provide—
- (a) that any fee is not to exceed such maximum as may be specified in, or determined in accordance with, the regulations, and
  - (b) that any fee is to be calculated in such manner as may be prescribed by the regulations.
- (3) Subsection (1) does not apply where provision is made by or under any enactment as to the fee that may be charged by the public authority for the disclosure of the information.

#### Textual Amendments

- F11** Words in s. 13 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, [Sch. 2 para. 12\(1\)\(a\)](#)

#### Commencement Information

- I4** S. 13 wholly in force at 1.1.2005; s. 13 in force at Royal Assent to the extent that it confers power to make regulations, see s. 87(1)(m)(3); s. 13 otherwise in force at 1.1.2005 by S.I. 2004/3122, art. 2

### 14 Vexatious or repeated requests.

- (1) Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.
- (2) Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

### 15 Special provisions relating to public records transferred to Public Record Office, etc.

- (1) Where—

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- (a) the appropriate records authority receives a request for information which relates to information which is, or if it existed would be, contained in a transferred public record, and
  - (b) either of the conditions in subsection (2) is satisfied in relation to any of that information,that authority shall, within the period for complying with section 1(1), send a copy of the request to the responsible authority.
- (2) The conditions referred to in subsection (1)(b) are—
  - (a) that the duty to confirm or deny is expressed to be excluded only by a provision of Part II not specified in subsection (3) of section 2, and
  - (b) that the information is exempt information only by virtue of a provision of Part II not specified in that subsection.
- (3) On receiving the copy, the responsible authority shall, within such time as is reasonable in all the circumstances, inform the appropriate records authority of the determination required by virtue of subsection (3) or (4) of section 66.
- (4) In this Act “transferred public record” means a public record which has been transferred—
  - (a) to the Public Record Office,
  - (b) to another place of deposit appointed by the Lord Chancellor under the <sup>M2</sup>Public Records Act 1958, or
  - (c) to the Public Record Office of Northern Ireland.
- (5) In this Act—
  - “appropriate records authority”, in relation to a transferred public record, means—
    - (a) in a case falling within subsection (4)(a), the Public Record Office,
    - (b) in a case falling within subsection (4)(b), the Lord Chancellor, and
    - (c) in a case falling within subsection (4)(c), the Public Record Office of Northern Ireland;
  - “responsible authority”, in relation to a transferred public record, means—
    - (a) in the case of a record transferred as mentioned in subsection (4)(a) or (b) from a government department in the charge of a Minister of the Crown, the Minister of the Crown who appears to the Lord Chancellor to be primarily concerned,
    - (b) in the case of a record transferred as mentioned in subsection (4)(a) or (b) from any other person, the person who appears to the Lord Chancellor to be primarily concerned,
    - (c) in the case of a record transferred to the Public Record Office of Northern Ireland from a government department in the charge of a Minister of the Crown, the Minister of the Crown who appears to the appropriate Northern Ireland Minister to be primarily concerned,
    - (d) in the case of a record transferred to the Public Record Office of Northern Ireland from a Northern Ireland department, the Northern Ireland Minister who appears to the appropriate Northern Ireland Minister to be primarily concerned, or
    - (e) in the case of a record transferred to the Public Record Office of Northern Ireland from any other person, the person who appears to the appropriate Northern Ireland Minister to be primarily concerned.

*Status: Point in time view as at 18/01/2010.*

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#### **Commencement Information**

- I5** S. 15 wholly in force at 1.1.2005; s. 15 not in force at Royal Assent, see s. 87(3); s. 15(4)(5) in force for certain purposes at 1.1.2005 by S.I. 2004/1909, art. 2; s. 15 otherwise in force at 1.1.2005 by S.I. 2004/3122, art. 2

#### **Marginal Citations**

- M2** 1958 c. 51.

### **16 Duty to provide advice and assistance.**

- (1) It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it.
- (2) Any public authority which, in relation to the provision of advice or assistance in any case, conforms with the code of practice under section 45 is to be taken to comply with the duty imposed by subsection (1) in relation to that case.

#### *Refusal of request*

### **17 Refusal of request.**

- (1) A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which—
  - (a) states that fact,
  - (b) specifies the exemption in question, and
  - (c) states (if that would not otherwise be apparent) why the exemption applies.
- (2) Where—
  - (a) in relation to any request for information, a public authority is, as respects any information, relying on a claim—
    - (i) that any provision of Part II which relates to the duty to confirm or deny and is not specified in section 2(3) is relevant to the request, or
    - (ii) that the information is exempt information only by virtue of a provision not specified in section 2(3), and
  - (b) at the time when the notice under subsection (1) is given to the applicant, the public authority (or, in a case falling within section 66(3) or (4), the responsible authority) has not yet reached a decision as to the application of subsection (1)(b) or (2)(b) of section 2,  
 the notice under subsection (1) must indicate that no decision as to the application of that provision has yet been reached and must contain an estimate of the date by which the authority expects that such a decision will have been reached.
- (3) A public authority which, in relation to any request for information, is to any extent relying on a claim that subsection (1)(b) or (2)(b) of section 2 applies must, either in the notice under subsection (1) or in a separate notice given within such time as is reasonable in the circumstances, state the reasons for claiming—

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- (a) that, in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the authority holds the information, or
  - (b) that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- (4) A public authority is not obliged to make a statement under subsection (1)(c) or (3) if, or to the extent that, the statement would involve the disclosure of information which would itself be exempt information.
- (5) A public authority which, in relation to any request for information, is relying on a claim that section 12 or 14 applies must, within the time for complying with section 1(1), give the applicant a notice stating that fact.
- (6) Subsection (5) does not apply where—
- (a) the public authority is relying on a claim that section 14 applies,
  - (b) the authority has given the applicant a notice, in relation to a previous request for information, stating that it is relying on such a claim, and
  - (c) it would in all the circumstances be unreasonable to expect the authority to serve a further notice under subsection (5) in relation to the current request.
- (7) A notice under subsection (1), (3) or (5) must—
- (a) contain particulars of any procedure provided by the public authority for dealing with complaints about the handling of requests for information or state that the authority does not provide such a procedure, and
  - (b) contain particulars of the right conferred by section 50.

*The Information Commissioner*<sup>F12</sup> . . .

#### Textual Amendments

**F12** Words in cross-heading preceding s. 18 omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(1), 5(1), **Sch. 2 para. 67**

### 18 **The Information Commissioner**<sup>F13</sup> . . . .

- (1) The Data Protection Commissioner shall be known instead as the Information Commissioner.
- (2)<sup>F14</sup> . . . . .
- (3) In this Act—
- (a) the Information Commissioner is referred to as “the Commissioner”,<sup>F15</sup> . . . .
  - (b)<sup>F15</sup> . . . . .
- (4) Schedule 2 (which makes provision consequential on subsections (1) and (2) and amendments of the<sup>M3</sup>Data Protection Act 1998 relating to the extension by this Act of the functions of the Commissioner and the Tribunal) has effect.
- (5) If the person who held office as Data Protection Commissioner immediately before the day on which this Act is passed remains in office as Information Commissioner at

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the end of the period of two years beginning with that day, he shall vacate his office at the end of that period.

- (6) Subsection (5) does not prevent the re-appointment of a person whose appointment is terminated by that subsection.
- (7) In the application of paragraph 2(4)(b) and (5) of Schedule 5 to the <sup>M4</sup>Data Protection Act 1998 (Commissioner not to serve for more than fifteen years and not to be appointed, except in special circumstances, for a third or subsequent term) to anything done after the passing of this Act, there shall be left out of account any term of office served by virtue of an appointment made before the passing of this Act.

#### Textual Amendments

- F13** Words in s. 18 heading omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(1), 5(1), **Sch. 2 para. 68(a)**
- F14** S. 18(2) omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(1), 5(1), **Sch. 2 para. 68(b)**
- F15** S. 18(3)(b) and preceding word omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(1), 5(1), **Sch. 2 para. 68(c)**

#### Commencement Information

- I6** S. 18 wholly in force at 1.1.2005; s. 18(4) in force for certain purposes at Royal Assent, see s. 87(1)(i); s. 18(1) wholly in force and s. 18(4) in force for certain further purposes at 30.1.2001, see s. 87(2)(a)(c); s. 18(2)(3)(5)–(7) in force and s. 18(4) in force for certain further purposes at 14.5.2001 by [S.I. 2001/1637](#), art. 2(a)(b); s. 18 otherwise in force at 1.1.2005 by [S.I. 2004/3122](#), **art. 2**

#### Marginal Citations

- M3** 1998 c. 29.
- M4** 1998 c. 29.

### Publication schemes

#### 19 Publication schemes.

- (1) It shall be the duty of every public authority—
- (a) to adopt and maintain a scheme which relates to the publication of information by the authority and is approved by the Commissioner (in this Act referred to as a “publication scheme”),
  - (b) to publish information in accordance with its publication scheme, and
  - (c) from time to time to review its publication scheme.
- (2) A publication scheme must—
- (a) specify classes of information which the public authority publishes or intends to publish,
  - (b) specify the manner in which information of each class is, or is intended to be, published, and
  - (c) specify whether the material is, or is intended to be, available to the public free of charge or on payment.
- (3) In adopting or reviewing a publication scheme, a public authority shall have regard to the public interest—

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- (a) in allowing public access to information held by the authority, and
  - (b) in the publication of reasons for decisions made by the authority.
- (4) A public authority shall publish its publication scheme in such manner as it thinks fit.
- (5) The Commissioner may, when approving a scheme, provide that his approval is to expire at the end of a specified period.
- (6) Where the Commissioner has approved the publication scheme of any public authority, he may at any time give notice to the public authority revoking his approval of the scheme as from the end of the period of six months beginning with the day on which the notice is given.
- (7) Where the Commissioner—
  - (a) refuses to approve a proposed publication scheme, or
  - (b) revokes his approval of a publication scheme,he must give the public authority a statement of his reasons for doing so.

#### **Commencement Information**

- 17** [S. 19](#) wholly in force at 1.1.2005; [s. 19](#) in force for certain purposes at Royal Assent, see [s. 87\(1\)\(b\) \(3\)](#); [s. 19\(5\)-\(7\)](#) in force at 30.11.2002 and [s. 19\(1\)-\(4\)](#) in force for certain purposes at 28.2.2003 and 30.6.2003 by [S.I. 2002/2812](#), [arts. 3, 4, 5](#) (as amended (1.4.2006) by [S.I. 2005/3239](#), [art. 9\(2\)](#), [Sch. 2 para. 8](#), [S.I. 2006/63](#), [art. 3\(2\)\(b\)](#) and [S.I. 2006/64](#), [art. 3\(2\)\(b\)](#)); [s. 19\(1\)-\(4\)](#) in force for certain further purposes at 31.10.2003, 29.2.2004 and 30.6.2004 by [S.I. 2003/2603](#), [arts. 2, 3, 4](#); [s. 19](#) in force in so far as not already in force at 1.1.2005 by [S.I. 2004/3122](#), [art. 2](#)

## **20 Model publication schemes.**

- (1) The Commissioner may from time to time approve, in relation to public authorities falling within particular classes, model publication schemes prepared by him or by other persons.
- (2) Where a public authority falling within the class to which an approved model scheme relates adopts such a scheme without modification, no further approval of the Commissioner is required so long as the model scheme remains approved; and where such an authority adopts such a scheme with modifications, the approval of the Commissioner is required only in relation to the modifications.
- (3) The Commissioner may, when approving a model publication scheme, provide that his approval is to expire at the end of a specified period.
- (4) Where the Commissioner has approved a model publication scheme, he may at any time publish, in such manner as he thinks fit, a notice revoking his approval of the scheme as from the end of the period of six months beginning with the day on which the notice is published.
- (5) Where the Commissioner refuses to approve a proposed model publication scheme on the application of any person, he must give the person who applied for approval of the scheme a statement of the reasons for his refusal.
- (6) Where the Commissioner refuses to approve any modifications under subsection (2), he must give the public authority a statement of the reasons for his refusal.

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*Status: Point in time view as at 18/01/2010.*

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- (7) Where the Commissioner revokes his approval of a model publication scheme, he must include in the notice under subsection (4) a statement of his reasons for doing so.

.....  
**Commencement Information**

- 18** S. 20 wholly in force at 1.1.2005; s. 20 in force for certain purposes at Royal Assent, see s. 87(1)(c)(3); s. 20 otherwise in force at 1.1.2005 by S.I. 2004/3122, art. 2



**Status:**

Point in time view as at 18/01/2010.

**Changes to legislation:**

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