

**EXPLANATORY MEMORANDUM TO
THE FREEDOM OF INFORMATION (PARLIAMENT AND NATIONAL ASSEMBLY
FOR WALES) ORDER 2008**

2008 No. 1967

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order amends the entries for the House of Commons, the House of Lords, and the National Assembly for Wales in Schedule 1 to the Freedom of Information Act 2000. It excludes: information as to any residential address of a Member of these bodies; information as to forthcoming or regular travel arrangements for Members; information on the identity of any person who delivers good or provides services (or has done either) to Members' addresses; and information on security expenditure by Members, including whether or not such expenditure has been incurred.

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

3.1 None.

4. Legislative Background

4.1 Section 7(3)(a) of the Act allows the Secretary of State to amend Schedule 1 to limit the entry relating to any public authority to information of a specified description.

4.2 The purpose of this provision is to allow for flexibility in the application of the Act to particular information held by public authorities. This might reflect, for example, changes in the functions of such authorities.

4.3 Section 7(4)(a) provides that before making an order relating to the National Assembly for Wales, the Secretary of State shall first consult the Presiding Officer of the National Assembly for Wales.

4.4 As the Order relates to the National Assembly for Wales, the Secretary of State for Justice consulted the Presiding Officer and his response was received on 14 July 2008.

5. Territorial Extent and Application

5.1 This instrument extends to the United Kingdom.

6. European Convention on Human Rights

6.1 The Secretary of State has made the following statement regarding Human Rights:

In my view the provisions of The Freedom of Information (Parliament and National Assembly for Wales) Order 2008 are compatible with the Convention rights.

7. Policy background

7.1 The House of Commons asserted in a motion debated in July 2008 its concern that Members should be able to speak on any matter without fear or threat of interference or molestation. That they are able to do so is integral to the efficacy of Parliamentary proceedings.

7.2 The House considered that Members' ability to speak freely would be inhibited by the publication under the Act of the following information due to an increased risk to Members' security that disclosure would cause:

- any residential addresses,
- forthcoming or regular travel details,
- the identity of any person who delivers goods or provides services (or has done either) to a Members' address, and
- expenditure on security, including whether or not such expenditure had been incurred.

In turn, this would reduce their effectiveness in Parliament, and in doing so prejudice the effective conduct of public affairs.

7.3 It was not the House's intention that the total amount of expenditure claimed made by a Member for regular travel for a particular month would be excluded from the scope of the Act, and the order has been drafted to reflect this.

7.4 By removing these classes of information from the scope of the Act, the House considers that its Members will be able to function as effective Parliamentarians without the prospect of the fears or threats detailed above arising.

7.5 The same concerns are shared by Members of the House of Lords and Assembly members of the National Assembly for Wales.

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument because it does not impose or reduce costs on business, charities or voluntary bodies.

8.2 A public sector Impact Assessment has not been carried out for this instrument as it does not impose any new costs on the bodies affected.

9. Contact

Mark Farrow at the Ministry of Justice can answer any queries regarding the instrument.

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