

2012 No. 2279

RIGHTS OF THE SUBJECT, ENGLAND AND WALES

**The Protection of Freedoms Act 2012 (Relevant Official
Records) Order 2012**

<i>Made</i> - - - -	<i>4th September 2012</i>
<i>Laid before Parliament</i>	<i>6th September 2012</i>
<i>Coming into force</i> - -	<i>1st October 2012</i>

The Secretary of State makes the following Order in exercise of the powers conferred by section 95(5) and (6) of the Protection of Freedoms Act 2012(a).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Protection of Freedoms Act 2012 (Relevant Official Records) Order 2012 and comes into force on 1st October 2012.

(2) In this Order—

“the Act” means the Protection of Freedoms Act 2012;

“service police force” means—

- (a) the Royal Navy Police;
- (b) the Royal Military Police; or
- (c) the Royal Air Force Police.

Relevant official records

2. Relevant official records for the purposes of section 95 of the Act are any of the following which are relevant to any application under section 92 of the Act—

- (a) records kept locally by a police force for the use of constables;
- (b) records kept locally by the British Transport Police for the use of constables;
- (c) records kept by the Ministry of Defence Police for the use of constables;
- (d) records kept by the Royal Navy Police for the use of members of a service police force;
- (e) records kept by the Royal Military Police for the use of members of a service police force;
- (f) records kept by the Royal Air Force Police for the use of members of a service police force;
- (g) records of magistrates’ courts dating from 1992 kept by Her Majesty’s Courts and Tribunals Service;

- (h) records of the Crown Court kept by Her Majesty's Courts and Tribunals Service.

Relevant data controllers

3. The following are prescribed as the relevant data controller in relation to the relevant official records—

- (a) the chief officer of police of a police force in England and Wales in relation to the records kept locally by that force for the use of constables;
- (b) the chief constable of the British Transport Police in relation to the records kept locally by the British Transport Police for the use of constables;
- (c) the chief constable of the Ministry of Defence Police in relation to the records kept by the Ministry of Defence Police for the use of constables;
- (d) the Provost Marshal for the Royal Navy Police in relation to the records kept by the Royal Navy Police for the use of members of a service police force;
- (e) the Provost Marshal for the Royal Military Police in relation to the records kept by the Royal Military Police for the use of members of a service police force;
- (f) the Provost Marshal for the Royal Air Force Police in relation to the records kept by the Royal Air Force Police for the use of members of a service police force;
- (g) the Secretary of State for Justice in relation to the records of magistrates' courts dating from 1992 kept by Her Majesty's Courts and Tribunals Service;
- (h) the Secretary of State for Justice in relation to the records of the Crown Court kept by Her Majesty's Courts and Tribunals Service.

Annotation of relevant official records

4. The following records are relevant official records in relation to which a notice to delete details means a notice to record the official record with the details of the disregarded conviction or caution concerned in accordance with section 95 of the Act—

- (a) any records forming part of the names database which are not held electronically; and
- (b) relevant official records referred to in article 2.

Home Office
4th September 2012

Lynne Featherstone
Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

Chapter 4 of Part 5 of the Protection of Freedoms Act 2012 ("the Act") makes provision for a person who has a conviction or caution for a specific offence (in particular one under section 12 or 13 of the Sexual Offences Act 1956 (c. 69) in relation to offences of buggery and gross indecency between men) to apply to the Secretary of State to have that conviction or caution disregarded. Section 92 of the Act sets out the circumstances in which such an application will be successful.

This Order, made under section 95 of the Act, prescribes which records of convictions and cautions are relevant official records which will be deleted should an application for a disregard be successful. When an application is successful, section 95 provides that the Secretary of State shall direct the relevant data controller of relevant official records to delete those records. Article 2 of

this Order prescribes which official records, in addition to the names database, are relevant official records for this purpose. Article 3 prescribes the relevant data controllers in relation to those relevant official records. Article 4 makes provision, in accordance with section 95 of the Act, for records to be annotated rather than deleted.

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STATUTORY INSTRUMENTS

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