

## **Freedom of Information Act 2000**

This note sets out the text of Sections 1 and 75 of the FOI Act and summarises the categories of exempt information. The Act itself can be viewed by following this link –

<http://www.legislation.hmso.gov.uk/acts/acts2000/20000036.htm>

And the Explanatory Notes on the Act can be viewed by following this link –

<http://www.legislation.hmso.gov.uk/acts/en/2000en36.htm>

**[Section 1: General right of access to information held by public bodies](#)**

**[Section 75: Power to amend or repeal enactments prohibiting disclosure of information](#)**

**[Categories of Exempt Information](#)**

## **Freedom of Information Act 2000 – Section 1 General right of access to information held by public bodies**

1. - (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.
- (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".

## **Freedom of Information Act 2000 – Section 75 Power to amend or repeal enactments prohibiting disclosure of information**

**75.** - (1) If, with respect to any enactment which prohibits the disclosure of information held by a public authority, it appears to the Secretary of State that by virtue of section 44(1)(a) the enactment is capable of preventing the disclosure of information under section 1, he may by order repeal or amend the enactment for the purpose of removing or relaxing the prohibition.

(2) In subsection (1)-

"enactment" means-

- (a) any enactment contained in an Act passed before or in the same Session as this Act, or
- (b) any enactment contained in Northern Ireland legislation or subordinate legislation passed or made before the passing of this Act;

"information" includes unrecorded information.

(3) An order under this section may do all or any of the following-

- (a) make such modifications of enactments as, in the opinion of the Secretary of State, are consequential upon, or incidental to, the amendment or repeal of the enactment containing the prohibition;
- (b) contain such transitional provisions and savings as appear to the Secretary of State to be appropriate;
- (c) make different provision for different cases.

## **Freedom of Information Act 2000 – Categories of Exempt Information**

### **Section 12: Exemption where cost of compliance exceeds appropriate limit**

No obligation to disclose if cost of doing so exceeds a threshold prescribed by Secretary of State.

### **Section 14: Vexatious or repeated requests**

No obligation to comply with vexatious requests; or with repeated or substantially similar requests from the same person other than at reasonable intervals.

### **Section 21: Information accessible to public by other means**

No obligation to disclose information which is reasonably accessible to the applicant by other means, even if available only on payment.

**(absolute exemption)**

### **Section 22: Information intended for future publication**

Information which is intended to be published, where it is reasonable that the information should not be disclosed until the intended date of publication - including information relating to research projects which it would be inappropriate to publish until the project had been completed, or statistical information which is usually published to a specific timetable.

### **Section 23: Information supplied by, or relating to, bodies dealing with security matters**

Information directly or indirectly supplied by/relating to certain bodies dealing with security matters. **(absolute/class exemption)**

### **Section 24: National security**

Information not covered by s23 where an exemption is required to safeguard national security.

### **Section 26: Defence**

Information likely to prejudice the defence of the "British Islands"<sup>1</sup> or colonies or the capabilities etc of the armed forces.

### **Section 27: International relations**

Information likely to prejudice relations with other States, international organisations or courts, UK interests abroad, etc.

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<sup>1</sup> The expression "the British Islands" is defined in Schedule 1 to the Interpretation Act 1978 as meaning the United Kingdom, the Channel Islands and the Isle of Man

### **Section 28: Relations within the United Kingdom**

Information likely to prejudice relations between UK administrations as defined in s28(2).

### **Section 29: The economy**

Information likely to prejudice the economic or financial interests of the UK, including, eg, budgetary interests.

### **Section 30: Investigations and proceedings conducted by public authorities**

Information held for the purposes of a criminal investigation or criminal proceedings. **(class exemption)**

Information relating to obtaining information from confidential sources ('informers'). **(class exemption)**

### **Section 31: Law enforcement**

Information likely to prejudice:

- prevention or detection of crime;
- apprehension or prosecution of offenders;
- administration of justice;
- assessment or collection of taxes etc;
- operation of immigration controls;
- maintenance of security and good order in prisons etc;
- exercise of investigative or regulatory functions (inc HSW) by a public authority;
- civil proceedings brought by a public authority arising from exercise of the above functions;
- inquiry under FASDI(S) Act<sup>2</sup>, arising from exercise of the above functions.

### **Section 32: Court records, etc**

**(absolute/class exemption)**

### **Section 33: Audit functions**

Information likely to prejudice the exercise by a public authority of its auditing functions relating to:

- the accounts of other public authorities;
- examinations of the efficiency, economy and effectiveness with which they use their resources to discharge their public functions.

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<sup>2</sup>Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976

### **Section 34: Parliamentary privilege**

Information whose exemption is required for the purpose of avoiding an infringement of the privileges of either House of Parliament.

**(absolute exemption)**

### **Section 35: Formulation of Government policy etc**

Information relating to:

- formulation or development of government policy;
- ministerial communications;
- Law Officers' advice; or
- the operation of a Ministerial private office.

**(class exemption)**

### **Section 36: Prejudice to effective control of public affairs**

Information not exempt by virtue of s35 which, in the reasonable opinion of a qualified person, is likely to prejudice:

- the maintenance of the convention of collective ministerial responsibility;
- the work of the NI or Wales Assemblies;
- free and frank provision of advice or exchange of views; or
- the effective conduct of public affairs.

**(absolute exemption in relation to info held by HoC or HoL)**

### **Section 37: Communications with Her Majesty, etc. and honours**

Information relating to the award of any honour or dignity or to any communications with the Royal Family or Household.

**(class exemption)**

### **Section 38: Health and safety**

Information whose disclosure is likely to endanger the physical or mental health of any individual.

### **Section 39: Environmental information**

Information which is to be made available under regs made under s74, or would be made available but for an exemption under the regs.

### **Section 40: Personal information**

Personal information relating to the applicant for the information.

**(absolute/class exemption)**

Personal information relating to a third party, if disclosure would contravene DPA 1998 or if the person concerned would not have a right to know about it or a right of access to it under DPA.

**(absolute exemption where disclosure would contravene the data protection principles)**

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### **Section 41: Information provided in confidence**

Information obtained from anyone if its disclosure would constitute an actionable breach of confidence.

**(absolute/class exemption)**

### **Section 42: Legal professional privilege**

Information to which such privilege applies.

**(class exemption)**

### **Section 43: Commercial interests**

Information that constitutes a trade secret.

Information whose disclosure is likely to prejudice anyone's commercial interests.

### **Section 44: Prohibitions on disclosure**

Information whose disclosure:

- is prohibited by or under any enactment;
- is incompatible with any European Community obligation; or
- would constitute or be punishable as a contempt of court.

**(absolute exemption)**

**Absolute exemption – there is no requirement to balance the public interest in disclosing information against the public interest in maintaining the exemption.**

**Class exemption – if the information is of the type described, the exemption can be applied. However, unless the exemption is also absolute (see above), the public interest in applying the class exemption still has to be balanced against the public interest in disclosure.**