

FREEDOM OF INFORMATION ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedules

Schedule 5: Amendments of public records legislation

Functions of the Advisory Council on Public Records

285. *Paragraph 1* inserts a new provision into the Public Records Act 1958 which extends the role of the Lord Chancellor's Advisory Council on Public Records to include the giving of advice on matters relating to the application of the Freedom of Information Act to information contained in public records which are also historical records under Part VI of the Act.

Access to Public Records

286. *Paragraphs 2 and 3* amend the Public Records Act 1958 with the effect of preserving the duty of the Keeper of Public Records to arrange reasonable facilities for the inspection of records which are held in the Public Record Office (and other appointed places of deposit) and which are subject to disclosure under the provisions of the Act, but otherwise to repeal the provisions of the 1958 Act relating to access to such records. The provision which had been made by section 5 of that Act had established a regime for access to and closure of records largely based on the discretion of the Lord Chancellor. That discretionary provision is superseded by the statutory regime for access which is established by sections 1 and 2 of the Act and which is subject to the exemptions in Part II of the Act. The provision made by sections 65 and 66 retains some of the 1958 Act's elements of consultation and consent as between the Public Record Office or Lord Chancellor on the one hand, and public authorities on the other, in the case of such disclosure of information as continues under the Act's regime to be discretionary. *Paragraph 5* makes provision for Northern Ireland corresponding to that made by paragraph 2(3).

Power to extend the meaning of 'public records'

287. *Paragraph 4* inserts a new paragraph 3A in Schedule 1 of the Public Records Act 1958. This enables further bodies to be added to the Table in paragraph 3 of that Schedule by Order in Council. Any new entry must relate to a body which is specified in Schedule 2 to the Parliamentary Commissioner Act 1967 or could be added to that Schedule. An Order in Council under this new power is subject to negative resolution procedure (unlike orders under the wider power in the existing paragraph 7, which are subject to affirmative resolution).