



Freedom of Information Act 2000

2000 CHAPTER 36

PART II

EXEMPT INFORMATION

36 Prejudice to effective conduct of public affairs.

- (1) This section applies to—
 - (a) information which is held by a government department or by [^{F1}the Welsh Assembly Government] and is not exempt information by virtue of section 35, and
 - (b) information which is held by any other public authority.
- (2) Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act—
 - (a) would, or would be likely to, prejudice—
 - (i) the maintenance of the convention of the collective responsibility of Ministers of the Crown, or
 - (ii) the work of the Executive Committee of the Northern Ireland Assembly, or
 - [^{F2}(iii) the work of the Cabinet of the Welsh Assembly Government.]
 - (b) would, or would be likely to, inhibit—
 - (i) the free and frank provision of advice, or
 - (ii) the free and frank exchange of views for the purposes of deliberation, or
 - (c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.
- (3) The duty to confirm or deny does not arise in relation to information to which this section applies (or would apply if held by the public authority) if, or to the extent that, in the reasonable opinion of a qualified person, compliance with section 1(1)(a) would, or would be likely to, have any of the effects mentioned in subsection (2).

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- (4) In relation to statistical information, subsections (2) and (3) shall have effect with the omission of the words “in the reasonable opinion of a qualified person”.
- (5) In subsections (2) and (3) “qualified person”—
- (a) in relation to information held by a government department in the charge of a Minister of the Crown, means any Minister of the Crown,
 - (b) in relation to information held by a Northern Ireland department, means the Northern Ireland Minister in charge of the department,
 - (c) in relation to information held by any other government department, means the commissioners or other person in charge of that department,
 - (d) in relation to information held by the House of Commons, means the Speaker of that House,
 - (e) in relation to information held by the House of Lords, means the Clerk of the Parliaments,
 - (f) in relation to information held by the Northern Ireland Assembly, means the Presiding Officer,
 - [^{F3}(g) in relation to information held by the Welsh Assembly Government, means the Welsh Ministers or the Counsel General to the Welsh Assembly Government,
 - (ga) in relation to information held by the National Assembly for Wales, means the Presiding Officer of the National Assembly for Wales,
 - (gb) in relation to information held by any Welsh public authority (other than one referred to in section 83(1)(b)(ii) (subsidiary of the Assembly Commission), the Auditor General for Wales [^{F4}, the Wales Audit Office] or the Public Services Ombudsman for Wales), means—
 - (i) the public authority, or
 - (ii) any officer or employee of the authority authorised by the Welsh Ministers or the Counsel General to the Welsh Assembly Government”,
 - (gc) in relation to information held by a Welsh public authority referred to in section 83(1)(b)(ii), means—
 - (i) the public authority, or
 - (ii) any officer or employee of the authority authorised by the Presiding Officer of the National Assembly for Wales,]
 - (i) in relation to information held by the National Audit Office [^{F5}or the Comptroller and Auditor General], means the Comptroller and Auditor General,
 - (j) in relation to information held by the Northern Ireland Audit Office, means the Comptroller and Auditor General for Northern Ireland,
 - (k) in relation to information held by the Auditor General for Wales [^{F6}or the Wales Audit Office], means the Auditor General for Wales,
 - [^{F7}(ka) in relation to information held by the Public Services Ombudsman for Wales, means the Public Services Ombudsman for Wales,]
 - (l) in relation to information held by any Northern Ireland public authority other than the Northern Ireland Audit Office, means—
 - (i) the public authority, or
 - (ii) any officer or employee of the authority authorised by the First Minister and deputy First Minister in Northern Ireland acting jointly,
 - (m) in relation to information held by the Greater London Authority, means the Mayor of London,

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- (n) in relation to information held by a functional body within the meaning of the ^{M1}Greater London Authority Act 1999, means the chairman of that functional body, and
 - (o) in relation to information held by any public authority not falling within any of paragraphs (a) to (n), means—
 - (i) a Minister of the Crown,
 - (ii) the public authority, if authorised for the purposes of this section by a Minister of the Crown, or
 - (iii) any officer or employee of the public authority who is authorised for the purposes of this section by a Minister of the Crown.
- (6) Any authorisation for the purposes of this section—
- (a) may relate to a specified person or to persons falling within a specified class,
 - (b) may be general or limited to particular classes of case, and
 - (c) may be granted subject to conditions.
- (7) A certificate signed by the qualified person referred to in subsection (5)(d) or (e) above certifying that in his reasonable opinion—
- (a) disclosure of information held by either House of Parliament, or
 - (b) compliance with section 1(1)(a) by either House,
- would, or would be likely to, have any of the effects mentioned in subsection (2) shall be conclusive evidence of that fact.

Textual Amendments

- F1** Words in s. 36(1)(a) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 82(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 \(c. 32\)](#))
- F2** S. 36(2)(a)(iii) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 82(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 \(c. 32\)](#))
- F3** S. 36(5)(g)-(gc) substituted for s. 36(g)(h) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 82(4)(a)** (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. 36(5)(gb) inserted (E.W.) (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), **Sch. 4 para. 18(2)** (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)
- F5** Words in s. 36(5)(i) inserted (1.4.2012) by [Budget Responsibility and National Audit Act 2011 \(c. 4\)](#), s. 29, **Sch. 5 para. 22(1)**; S.I. 2011/2576, art. 5
- F6** Words in s. 36(5)(k) inserted (E.W.) (1.4.2014) by [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#), s. 35(2), **Sch. 4 para. 18(3)** (with [Sch. 3 para. 3](#)); S.I. 2013/1466, art. 3(1)
- F7** S. 36(5)(ka) inserted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 82(4)(b)** (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 \(c. 32\)](#))

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Modifications etc. (not altering text)

C1 S. 36(5)(i) amended (1.4.2012) by [Budget Responsibility and National Audit Act 2011 \(c. 4\), s. 29, Sch. 5 para. 22\(2\)](#); S.I. 2011/2576, art. 5

Marginal Citations

M1 1999 c. 29.

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