

Freedom of Information (Amendment) Bill

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TO

Amend the Freedom of Information Act 2000 to remove provisions permitting Ministers to overrule decisions of the Information Commissioner and Information Tribunal; to limit the time allowed for public authorities to respond to requests involving consideration of the public interest; to amend the definition of public authorities; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Public authorities

- (1) The Freedom of Information Act 2000 (“the Act”) is amended as follows.
- (2) At the end of section 3(1) (public authorities) insert—
- “(c) a public sector contractor as defined in section 6A, in respect of information concerning a relevant contract or performance under a relevant contract, 5
 - (d) a publicly funded ‘not for dividend’ company as defined in section 6B.”.
- (3) After section 6 insert—
- “6A Public sector contractors 10**
- (1) For the purposes of section 3(1)(c)—
- (a) a public sector contractor is any person who, under the terms of a relevant contract with one or more public authorities—
 - (i) provides any service whose provision is a function of the authority or authorities, 15
 - (ii) provides any service directly to the public, or
 - (iii) carries out activities which may affect the health and safety of the public or the state of the environment, and
 - (b) a “relevant contract” is a contract of a value exceeding the sum of £1,000,000 and which extends for a period of more than 12 months. 20

- (2) The right of access under section 1(1) applies to a public sector contractor only in respect of information which relates to a relevant contract with one or more public authorities or to performance under such a contract.
- (3) In the case of a person who is a public sector contractor solely by virtue of carrying out activities referred to in section 6A(1)(a)(iii), the right of access under section 1(1) applies only to information which relates to—
- (a) the health and safety of the public,
 - (b) the state of the environment, or
 - (c) policies, agreements, measures, activities, conduct or proposals affecting or likely to affect any of those matters, whether or not they are intended to do so.”
- (4) After section 6 insert—
- “6B Publicly funded not for dividend company**
- (1) For the purposes of section 3(1)(d) a publicly funded not for dividend company is any company which receives any funding from local or central government and does not pay a dividend.
- (2) The right of access under section 1(1) applies to a publicly funded not for dividend company only in respect of information which relates to work undertaken on behalf of local or central government.”
- 2 Publicly owned companies**
- In section 6(1)(b) of the Act for the words “it is wholly owned by any public authority” are substituted the words “at least 51% of its shares are owned by one or more public authorities”.
- 3 Time limits for compliance**
- (1) Section 10 of the Act is amended as follows.
- (2) In section 10(1) for the words “and (3)” there is substituted “, (3) and (3A)”.
- (3) In section 10(3) for the words “need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances” there is substituted “must comply with section 1(1)(a) or (b) promptly and in any event not later than the fortieth working day following receipt.”
- (4) After section 10(3) there is inserted—
- “(3A) In the case of a request which satisfies the conditions in subsection (3B), the public authority must comply with section 1(1)(a) or (b) promptly and in any event not later than the fiftieth working day following receipt; but this subsection does not affect the time by which any notice under section 17(1) must be given.
- “(3B) The conditions mentioned in subsection (3A) are that—
- (a) the request must be received by an appropriate records authority or by a person at a place of deposit appointed under section 4(1) of the Public Records Act 1958, and
 - (b) the request must relate wholly or partly to information that may be contained in a transferred public record and that has not

been designated as open information for the purposes of section 66 of this Act.”.

4 Ministerial veto

The following provisions of the Act are omitted—

- (a) Section 53 (exception from duty to comply with decision notice or enforcement notice), 5
- (b) section 50(7),
- (c) section 52(5), and
- (d) in section 82(2)(a) the words “53(1)(a)(iii)”.

5 Short title and commencement

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- (1) This Act may be cited as the Freedom of Information (Amendment) Act 2011.
- (2) Sections 1 and 2 of this Act come into force at the end of the period of 9 months beginning with the day on which this Act is passed.
- (3) Section 3 of this Act comes into force at the end of the period of 2 months beginning with the day on which this Act is passed but shall not apply to any request to a public authority which the authority received before the section comes into force. 15
- (4) The remaining provisions come into force on the day on which this Act is passed.

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To amend the Freedom of Information Act 2000 to remove provisions permitting Ministers to overrule decisions of the Information Commissioner and Information Tribunal; to limit the time allowed for public authorities to respond to requests involving consideration of the public interest; to amend the definition of public authorities; and for connected purposes.

*Ordered to be brought in by Tom Brake,
Caroline Lucas, Dr Julian Huppert,
Dan Rogerson, Tim Farron, Mike Crockart,
Stephen Lloyd, Mr Richard Shepherd
and Simon Hughes.*

*Ordered, by The House of Commons,
to be Printed, 7 September 2010.*

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