

**EXPLANATORY MEMORANDIUM TO
THE FREEDOM OF INFORMATION (PARLIAMENT) ORDER 2009**

2009. No. 0000

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1. This Order amends the entries for the House of Commons and the House of Lords in Part 1 of Schedule 1 to the Freedom of Information Act 2000 ("the Act"). In respect of Members of Parliament it removes most expenditure information held by either House of Parliament from the scope of the Act

2.2. Information relating to the total amount of expenditure incurred in respect of a member during any year (other than expenditure on security arrangements); remains within the scope of the Act.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. It is important to give clarity to the public by allowing the new procedures, if approved by each House to come into effect immediately.

4. Legislative Context

4.1. Section 7(3)(a) of the Act allows the Secretary of State to amend Schedule 1 to limit the entry of a public authority to information of a specified description. Section 7(3)(b) allows the Secretary of State to amend Schedule 1 to amend any limitation to information or a specified description contained in a public authority's entry.

5. Territorial Extent and Application

5.1. This instrument extends to the United Kingdom.

6. European Convention on Human Rights

6.1. The Secretary of State has made the following statement regarding Human Rights.

In my view, the provisions of The freedom of information (Parliament) Order 2009 are compatible with the Convention rights.

7. Policy background

7.1. The purpose of this Order is in change the scope of the application of the Act in relation to information held by the House of Commons and House of

Lords regarding expenditure in respect of Members of both Houses. This includes information held by either House about expenses claimed by and allowances paid to Members. Such information is no longer within the scope of the Act. However, information relating to the total annual amount of expenditure incurred in respect of a Member remains within the scope of the Act but not expenditure information on a Member's security arrangements, (which remains outside the scope of the Act).

7.2 The Order will not affect the application of the Act to other information held by the House of Commons or the House of Lords (e.g, information about the administration of the Houses themselves),

7.3 The Order amends the Act so that neither House or Parliament will be required, under the Act, to disclose receipt level information on Members expenditure.

8. Consultation outcome

8.1. The authorities of each House have been consulted,

8.2. The Order will be debated on the floor of the House of Commons and the House of Lords. The Leaders of each House will announce the date shortly.

The House of Commons will be invited to approve a motion to be tabled by the Leader of the House, which sets out the categories of information, which if agreed to, would be published.

9. Guidance

9.1 . The Department of Resources in the House of Commons and the Finance Office in the House of Lords will issue any guidance required for the benefit of Members, if the Order is approved.

10. Impact

10.1. An Impact Assessment has not been prepared for this instrument because it does not impose or reduce Costs on business, charities or voluntary bodies.

10.2, A public sector Impact Assessment has not been carried out for this instrument as it does not impose any new costs on the bodies affected.

11. Contact

Stephen Hillcoat at the Ministry of Justice (020 333 44526) will answer queries regarding the instrument.

Draft Order laid before Parliament under section 82(2)(a) of the Freedom of Information Act 2000 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. 0000

FRREDOM OF INFORMATTON

The Freedom of Information (Parliament) Order 2009

Made - - - - * * *
Coming into force - - - -

The Secretary of State makes the following Order in exercise of the powers conferred by section 7(3)(a) and (b) of the Freedom of Information Act 2000(a).

A draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament in accordance with section 82(2)(a) of that Act.

Citation and commencement

1. – (1) This Order may be cited as the Freedom of Information (Parliament) Order 2009.
2. (2) This Order comes into force on the day after the day on which it is made.

Amendment of Schedule 1

2.—(1) Part 1 of Schedule 1 to the Freedom of Information Act 2000(b) is amended as follows.

(2) in paragraph 2, for paragraph (d) and all the words following it substitute

“(d) information relating to any expenditure in respect of which

(i) a claim has been made to either House of Parliament by a member of either House, or

(ii) a payment has been made by either House of Parliament to or on behalf of a member of either House.

Paragraphs (b) and (d) do not except information relating to the total amount of expenditure incurred in respect of a member during any year, other than expenditure on security arrangements.”.

(3) In paragraph 3. for paragraph (d) and all the words following it substitute-“

(d) information relating to any expenditure in respect of which

(a) 2000 c 36. The functions of the Lord Chancellor under section 7 were transferred to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887). Those functions had previously been transferred to the Lord Chancellor by the Transfer of Functions (Miscellaneous) Order 2001 (S.I. 2001/3500), which Order amended that section accordingly.

(b) Part 1 of Schedule 1 was previously amended by the Freedom of Information Act (Parliament and National Assembly for Wales) Order 2008 (S.I. 2008/1967)

- (i) a claim has been made to either House of Parliament by a member of either House, or
- (ii) a payment has been made by either House of Parliament to or on behalf of a member of either House.

Paragraphs (b) and (d) do not except information relating to the total amount of expenditure incurred in respect of a member during any year, other than expenditure on security arrangements."

Name
Minister

XX January 2009

EXPLANATORY NOTE

(This note is not part of the Order)

The obligations under the Freedom of Information Act 2000 ("The Act") apply to public authorities. For the purposes of the Act, a "public authority" means a body or office which is listed in Schedule 1 to the Act or designated by an order under section 5 of the Act or a publicly-owned company as defined by section 6 of the Act.

Schedule 1 to the Act may be amended by an order made by the Secretary of State under section 7(3)(a) limiting an entry relating to a public authority to information of a specified description, and under section 7(3)(b) amending any existing limitation.

The Freedom of Information (Parliament and National Assembly for Wales) Order 2008 (S.I. 2008/1967) limited the Schedule 1 entries of the House of Commons and House of Lords. It amended the Act so that information held by either House on forthcoming or regular travel arrangements of a member of either House (except as to the total amount of expenditure incurred on travel during any month) is not held *by* either House for the purposes of the Act.

This Order further limits and amends the Schedule 1 entries of the House of Commons and the House of Lords. In particular, the effect of this Order is that information held by the House of Commons or House of Lords relating to expenditure in respect of which

- a claim has been made to either House of Parliament by a member of either House, or
- a payment has been made to or on behalf of a member of either House of Parliament by either House

is not held by either House for the purposes of section 3 of the Act.

Information relating to the total amount or such expenditure (except expenditure on security arrangements) incurred during any year is not exempted and is within the scope of the Act.

This Order also amends Schedule 1 so that only annual, rather than monthly, expenditure information relating to certain travel arrangements of members of either House of Parliament which is held by either House of Parliament is held for the purposes of section 1 of the Act.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.