WELSH STATUTORY INSTRUMENTS

2009 No. 2818 (W.244)

OFFICIAL STATISTICS

The Pre-release Access to Official Statistics (Wales) Order 2009

Made - - - - 20 October 2009

Coming into force in accordance with article 1

The Welsh Ministers make this Order in exercise of the powers conferred by sections 11(2), (4), (5) and (6) of the Statistics and Registration Service Act 2007(**1**).

In accordance with section 11(7) of that Act, the Welsh Ministers have consulted the Minister for the Cabinet Office, the Scottish Ministers, the Department of Finance and Personnel for Northern Ireland and the Statistics Board.

In accordance with section 65(7) of that Act, a draft of this Order has been laid before and approved by resolution of the National Assembly for Wales.

Title and commencement

1. The title of this Order is the Pre-release Access to Official Statistics (Wales) Order 2009 and it comes into force on the day after the day on which it is made.

Interpretation

2. In this Order—

"the Act" ("*y Ddeddf*") means the Statistics and Registration Service Act 2007;

"the Code" ("*y Cod*") means the Code of Practice for Statistics under section 10 of the Act; and

"market-sensitive statistics" ("*ystadegau sy'n sensitif i'r farchnad*") means statistics which when disclosed would, in the opinion of the person responsible, be reasonably likely to have a significant effect on the value of any investment or on the amounts traded of any investment.

Statistics to which pre-release access rules and principles apply

3.—(1) Subject to paragraph (4), the Schedule applies to the statistics referred to in paragraph (3).

(2) For the purposes of the Code, the Schedule provides for rules and principles relating to the granting of pre-release access(**2**) to those statistics.

(**1**) 2007 c. 18.

(**2**) "pre-release access" is defined in section 11(8) of the Statistics and Registration Service Act 2007 c. 18 ("the Act").

(3) The statistics are official statistics(**3**) that are wholly Welsh devolved statistics(**4**) and–

(a) have been designated as "National Statistics" under section 12(2) of the Act, and that designation has not been cancelled;

(b) are regarded by virtue of section 12(8) of the Act as having been designated as "National Statistics", and that designation has not been cancelled; or

(c) a request under section 12(1) of the Act has been made in respect of them, and no determination has been made under section 12(2) of the Act.

(4) The Schedule does not apply where the statistics are released only for the purpose of producing an electronic or hard copy publication in which the statistics are to be published.

Andrew Davies
Minister for Finance and Public Service Delivery, one of the Welsh Ministers

20 October 2009

(**3**) "official statistics" is defined in section 6(1) of the Act.
(**4**) "Welsh devolved statistics" is defined in section 66(3) of the Act.

SCHEDULE Article 3

Rules and principles relating to pre-release access

Individuals to whom, and circumstances in which, pre-release may be granted

1.—(1) Subject to the provisions of this Order, the person responsible(**5**) may grant pre-release access in respect of statistics only to the extent that they consider it is necessary to grant access to a particular identifiable individual in order to–

(a) enable an individual mentioned in sub-paragraph (3) to comment publicly on the statistics based on a correct understanding of them;

(b) enable an individual mentioned in sub-paragraph (3) to consider the implications of the statistics for the policies and programmes of the Welsh Ministers so as to ensure that any public comments made by an individual mentioned in sub-paragraph (3) about those policies and programmes at or after the time of publication of the statistics reflect a correct understanding of them;

(c) ensure that other statistics available to an individual mentioned in sub-paragraph (3), about the same subject-matter as the statistics to which pre-release access may be granted are not relied on by such an individual to the detriment of—

(i) the exercise of any functions of the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government, or

(ii) any public comment an individual mentioned in sub-paragraph (3) makes relating to those other statistics,

without their being informed of the statistics to which pre-release access may be granted;

(d) ensure, where a publication or other material is being prepared by or on behalf of any public body, public office or holder of such an office for publication at the same time or shortly after the statistics to which pre-release access may be granted, that any statistics contained in that publication or material are correct or that the publication or material is otherwise properly informed by the statistics to which pre-release access may be granted;

(e) enable one of the following to make public comments in connection with the publication of the statistics based on a correct understanding of them—

(i) a Minister of the Crown;

(ii) the head of a United Kingdom government department;

(iii) a member of the Scottish Executive;

(iv) a junior Scottish Minister;

(v) a Northern Ireland Minister, including the First Minister and Deputy First Minister in Northern Ireland;

(vi) a member of the Northern Ireland Assembly appointed as a junior Minister under section 19 of the Northern Ireland Act 1998(**6**);

(vii) an individual who advises any of those mentioned in sub-paragraphs (i) to (vi).

(f) enable a public body, public office or holder of such an office, to whose functions the statistics are relevant, to comment publicly on the statistics based on a correct understanding of them;

(**5**) "the person responsible" is defined in section 67 of the Act.
(**6**) 1998 c. 47.

(g) enable a body which represents a public body, public office or holder of such an office to whose functions the statistics are relevant, to comment publicly on the statistics based on a correct understanding of them;

(h) achieve any other purpose if the person responsible considers that the public interest is significantly better served by granting pre-release access (rather than not granting it) for that purpose having regard to any harm which the pre-release access would be likely to cause to–

(i) public trust in the integrity of official statistics generally; or

(ii) public trust in the integrity of particular official statistics.

(2) The person responsible may grant pre-release access only where they are satisfied that there are arrangements in place to inform an individual to whom they grant pre-release access of the following information—

(a) the ground in sub-paragraph (1) under which access is granted; and

(b) the requirements of paragraph 5.

(3) The individuals mentioned in this sub-paragraph are—

(a) a Welsh Minister appointed under section 48 of the Government of Wales Act 2006(**7**);

(b) the First Minister for Wales;

(c) the Counsel General to the Welsh Assembly Government;

(d) a Deputy Welsh Minister appointed under section 50 of the Government of Wales Act 2006;

(e) an individual who advises any of those mentioned in sub-paragraphs (a) to (d).

Pre-release access to be granted to particular identifiable individuals

2. Where the person responsible grants pre-release access they must make that grant to a particular identifiable individual.

Information to accompany statistics to which pre-release access has been granted

3. The person responsible must ensure that the following information accompanies the release of statistics in respect of which they have granted pre-release access—

(a) in the case of market-sensitive statistics, that they are "Confidential Statistics";

(b) in the case of statistics that are not market-sensitive statistics, that they are "Restricted Statistics";

(c) in all cases—

(i) that pre-release access in respect of the statistics has been granted under this Order;

(ii) that paragraph 5 of this Schedule contains certain requirements; and

(iii) details of how to inform the person responsible in the event that the statistics are or might be disclosed otherwise than is permitted by this Order.

Timing of access

4.—(1) Subject to sub-paragraphs (2) to (6)—

(**7**) 2006 c. 32.

(a) in the case of market sensitive statistics, where granting pre-release access the person responsible must not give access to those statistics earlier than 24 hours before the intended time of their publication;

(b) in the case of other statistics, where granting pre-release access the person responsible must not give access to those statistics earlier than the fifth day before the intended date of their publication;

(c) in all cases, the person responsible must not give access earlier than they consider is necessary to fulfil the purpose for which they are granting access.

(2) Where the person responsible grants pre-release access under the ground in paragraph 1(1)(d), sub-paragraphs (1)(a) and (b) do not apply.

(3) Where granting pre-release access the person responsible may give access earlier than is provided for in sub-paragraphs (1)(a) and (b) provided that the following conditions are met–

(a) they consider that such earlier access is necessary to fulfil the purpose for which they are granting pre-release access; and

(b) they consider that the public interest is significantly better served by giving such earlier access (rather than not giving it) having regard to any harm which such earlier access would be likely to cause to–

(i) public trust in the integrity of official statistics generally; or

(ii) public trust in the integrity of particular official statistics.

(4) Where the person responsible gives pre-release access earlier than is provided for in sub-paragraphs (1)(a) and (b) they must, as soon as is reasonably practicable, inform the Statistics Board(**8**) of–

(a) the fact that they have done so;

(b) the name of the statistics in respect of which such earlier access has been given;

(c) the name and position of the individual to whom such earlier access has been given;

(d) the date and time from which access was given;

(e) the ground in paragraph 1(1) under which access was granted; and

(f) an explanation of the reason for granting such earlier access.

(5) The requirements set out in sub-paragraph (4) apply in cases where the person responsible has granted pre-release access under the ground in paragraph 1(1)(d) as if the restrictions in sub-paragraph (1) did apply to grants under that ground.

(6) The periods of time mentioned in sub-paragraph (1) ("24 hours" and "day") exclude any period of time which falls within a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a Bank Holiday under the Banking and Financial Dealings Act 1971(**9**) in any part of the United Kingdom.

Requirements where pre-release access has been granted

5.—(1) This paragraph applies where an individual has been granted pre-release access under paragraph 1 in respect of statistics, or where statistics have been disclosed to an individual under paragraph 6.

(2) Without prejudice to paragraph 6, the individual must not disclose the statistics, or any indication of their content or of what they may show.

(**8**) The Statistics Board ("*Y Bwrdd Ystadegau*") was established by section 1(1) of the Act.
(**9**) 1971 c. 80.