Draft Order laid before Parliament under section 67(4) of the Data Protection Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2005 No.

DATA PROTECTION

The Data Protection (Subject Access Modification) (Social Work) (Amendment) Order 2005

Made - - - -	*2005*
Coming into force - -	*7th March 2005*

Whereas a draft of this Order has been laid before and approved by a resolution of each House of Parliament;

Whereas the Secretary of State considers that the application of the subject information provisions (or those provisions without modification) in the circumstances and to the extent specified in this Order would be likely to prejudice the carrying out of social work:

Now, therefore, the Secretary of State, in exercise of the powers conferred((**1**) on him by sections 30(3) and (4) and 67(2) of the Data Protection Act 1998(**2**), and after consulting the Information Commissioner in accordance with section 67(3) of that Act(**3**), hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Data Protection (Subject Access Modification) (Social Work) (Amendment) Order 2005 and comes into force on 7th March 2005.

Interpretation

2. In this Order, "the 2000 Order" means the Data Protection (Subject Access Modification) (Social Work) Order 2000(**4**).

(**1**) The functions of the Secretary of State under sections 30 and 67 were transferred to the Lord Chancellor by the Transfer of Functions (Miscellaneous) Order 2001 (S.I. 2001/3500), which Order amended those sections accordingly. The functions of the Lord Chancellor under sections 30 and 67 as amended were transferred back to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), which Order amended those sections accordingly.

(**2**) 1998 c.29.

(**3**) The Data Protection Commissioner became the Information Commissioner on 30th January 2001 by virtue of sections 18(1) and 87(2)(a) of the Freedom of Information Act 2000 (c. 36). The consultation requirement in section 67(3) of the Data Protection Act 1998 now refers to the Information Commissioner as the definitions of "the Commissioner" in sections 6(1) and 70(1) of that Act have been amended by paragraphs 13(2) and 14(a) of Schedule 2 to the Freedom of Information Act 2000.

(**4**) S.I. 2000/415.

Amendments to article 5 of the 2000 Order

3.—(1) Article 5 of the 2000 Order is amended in accordance with this article.

(2) In article 5(2)(a), for "or (o)", substitute ", (o), (r), (s) or (t)".

Amendments to article 7 of the 2000 Order

4. In article 7(2) of the 2000 Order—

(1) for "After section 7(11) of the Act insert-", substitute "In relation to data to which this Order applies by virtue of paragraph 1 of the Schedule, section 7 shall have effect as if after subsection (11) there were inserted-" and

(2) in paragraph (a) of subsection (12) of section 7 of the Act as modified, for "1(p) or (q)" substitute "1(p), (q), (r), (s) or (t)".

Amendments to the Schedule to the 2000 Order

5.—(1) The Schedule to the 2000 Order is amended in accordance with this article.

(2) In paragraph 1(p)(**5**), for "section 41 of the Children's Act 1989", substitute "rule 4.10 of the Family Proceedings Rules 1991 or rule 10 of the Family Proceedings Courts (Children Act 1989) Rules 1991".

(3) After paragraph 1(q), insert the following new sub-paragraphs—

"(r) data processed by any officer of the Children and Family Court Advisory and Support Service for the purpose of his functions under section 7 of the Children Act 1989(**6**), rules 4.11 and 4.11B of the Family Proceedings Rules 1991(**7**), and rules 11 and 11B of the Family Proceedings Courts (Children Act 1989) Rules 1991(**8**);

(s) data processed by any officer of the service appointed as guardian ad litem under rule 9.5(1) of the Family Proceedings Rules 1991(**9**)

(t) data processed by the Children and Family Court Advisory and Support Service for the purpose of its functions under section 12(1) and (2) and section 13(1), (2) and (4) of the Criminal Justice and Court Services Act 2000(**10**)."

(4) In paragraph 2—

(a) after "probation officer", insert ", officer of the Children and Family Court Advisory and Support Service", and

(**5**) The Children and Family Court Advisory and Support Service (Miscellaneous Amendments) Order 2002 (S.I. 2002/3220) substituted a new paragraph (p) into paragraph 1 of the Schedule to the 2000 Order, which now provides that "data processed by any children's guardian appointed under section 41 of the Children Act 1989, by any guardian ad litem appointed under Article 60 of the Children (Northern Ireland) Order 1995 or Article 66 of the Adoption (Northern Ireland) Order 1987 or by a safeguarder appointed under section 41 of the Children (Scotland) Act 1995".

(**6**) Section 7 of the Children Act 1989 was amended by section 74 of, and Part II of Schedule 7 to, the Criminal Justice and Court Service Act 2000 to make provision for the preparation of reports to the court by an officer of the Children and Family Court Advisory and Support Service.

(**7**) S.I. 1991/1247, as amended by rule 16 of the Family Proceedings (Amendment) Rules 2001 (S.I. 2001/821).

(**8**) S.I. 1991/1395, as amended by the Family Proceedings Courts (Children Act 1989) (Amendment) Rules 2001 (S.I. 2001/818). Rules 10 and 11 of the 1991 Rules were amended by rule 1 of the 2001 Rules. Rules 11A and 11B were inserted by rules 2 and 7 of the 2001 Rules.

(**9**) Rule 9.5 was amended by rule 31(a) of the Family Proceedings (Amendment) Rules 2001 (S.I. 2001/821).

(**10**) 2000 c. 43.