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

DRAFT STATUTORY INSTRUMENTS

2004 No.

FREEDOM OF INFORMATION

The Freedom of Information (Time for Compliance with Request) Regulations 2004

Made - - - -	*November 2004*
Coming into force - -	*1st January 2005*

Whereas a draft of these Regulations has been approved by resolution of both Houses of Parliament in pursuance of section 82(2) of the Freedom of Information Act 2000(**1**);

Now, therefore, the Secretary of State, in exercise of the powers conferred(**2**) by section 10(4) and (5) of the Freedom of Information Act 2000, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Freedom of Information (Time for Compliance with Request) Regulations 2004 and come into force on 1st January 2005.

Interpretation

2. In these Regulations, "the Act" means the Freedom of Information Act 2000.

Governing body of a maintained school or maintained nursery school and schools maintained by the Secretary of State for Defence

3.—(1) This regulation applies–

(a) to a request for information that is received by the governing body of a maintained school or a maintained nursery school(**3**); and

(**1**) 2000 c. 36.

(**2**) The functions of the Secretary of State under section 75 were transferred to the Lord Chancellor by the Transfer of Functions (Miscellaneous) Order 2001 (S.I.2001/3500), which Order amended section 75 accordingly. The functions of the Lord Chancellor under section 75 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 section 75 accordingly.

(**3**) Section 215(1) of, and paragraph 127 of Schedule 21 to, the Education Act 2002 (c. 32) substitutes a new paragraph 52 in Schedule 1 to the Freedom of Information Act 2000 ("the Act"), adding the governing body of a maintained school as defined by section 20(7) of the School Standards and Framework Act 1998 (c. 31) and the governing body of a maintained nursery school as defined by section 22(9) of that Act to the list of public authorities in the Act.

(b) to a request for information that is held by the public authority only by virtue of the information being situated in a school which is maintained by the Secretary of State for Defence and which provides primary or secondary education (or both primary and secondary education).

(2) Where this regulation applies, subsections (1) and (2) of section 10 of the Act have effect as if any reference to the twentieth working day following the date of receipt were a reference to either–

(a) the twentieth working day following the date of receipt, disregarding any working day which, in relation to the school referred to in paragraph (1), is not a school day, or

(b) the sixtieth working day following the date of receipt,

whichever occurs first.

(3) "School day", for the purposes of this regulation, means any day on which, at the school referred to in paragraph (1) above, there is a session.

Archives

4.—(1) This regulation applies where–

(a) a request for information is 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(**4**); and

(b) the request relates wholly or partly to information–

(i) that may be contained in a transferred public records, and

(ii) that has not been designated as open information for the purposes of section 66 of the Act.

(2) Where this regulation applies, subsections (1) and (2) of section 10 of the Act have effect as if any reference to the twentieth working day following the date of receipt were a reference to the thirtieth working day following the date of receipt.

Operations of armed forces of the Crown

5.—(1) This regulation applies, in relation to a request for information, where–

(a) a public authority cannot comply with section 1(1) of the Act without obtaining information (whether or not recorded) from any individual (whether or not a member of the armed forces of the Crown) who is actively involved in an operation of the armed forces of the Crown, or in the preparations for such an operation, and

(b) for that reason, the public authority would not be able to obtain the information within such time as to enable it to comply with the request within the time referred to in subsection 10(1) and (2) of the Act.

(2) Where this regulation applies, subsections (1) and (2) of section 10 of the Act have effect as if any reference to the twentieth working day following the date of receipt were a reference to such other day, not being later than the sixtieth working day following the date of receipt, as the Information Commissioner may specify in accordance with paragraph (3) below.

(3) Where–

(a) the public authority applies to the Information Commissioner for specification of a day in accordance with this regulation, and

(b) that application is made within twenty working days following the date of receipt of the request,

(**4**) 1958 c. 51.