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

Freedom of Information (Removal and Relaxation of Statutory Prohibitions on Disclosure of Information) Order 2004

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

Whereas a draft of this Order has been approved by resolution of each House of Parliament in pursuance of section 82(2) of the Freedom of Information Act 2000(**1**);

Whereas it appears to the Secretary of State that by virtue of section 44(1)(a) of the Freedom of Information Act 2000, the enactments repealed or amended by this Order are capable of preventing the disclosure of information under section 1 of that Act;

Now, therefore, the Secretary of State, in exercise of the powers conferred(**2**) by section 75 of the Freedom of Information Act 2000, hereby makes the following Order to repeal or amend those enactments for the purposes of removing or relaxing the prohibition on disclosure:

Citation and commencement

1. This Order may be cited as the Freedom of Information (Removal and Relaxation of Statutory Prohibitions on Disclosure of Information) Order 2004 and comes into force on 1st January 2005.

Factories Act 1961

2. After section 154 of the Factories Act 1961(**3**) (prohibition on disclosure of information), insert–

"**Exception to the prohibition: public authorities**

154A. Section 154 does not apply if–

(**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 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**) 1961 c. 34, as amended by regulation 2(a) of, and Schedule 1 to, S.I. 1974/1941.

(a) the person making the disclosure referred to in that section is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and

(b) the information is not held by the authority on behalf of another person."

Offices, Shops and Railway Premises Act 1963

3. After section 59 of the Offices, Shops and Railway Premises Act 1963(**4**) (restriction on disclosure of information), insert–

"**Exception to restriction: public authorities**

59A. Section 59 does not apply if–

(a) the person making the disclosure referred to in that section is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and

(b) the information is not held by the authority on behalf of another person."

Medicines Act 1968

4. In section 118 of the Medicines Act 1968(**5**) (restrictions on disclosure of information), after subsection (1) insert–

"(1A) Subsection (1) of this section does not apply if–

(a) the person making the disclosure referred to in that section is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and

(b) the information is not held by the authority on behalf of another person."

Health and Safety At Work Act 1974

5.—(1) Section 28 of the Health and Safety At Work Act 1974(**6**) (restrictions on disclosure of information) is amended as follows.

(2) In subsection (3), after paragraph (e), insert–

"(f) any other disclosure of information by the recipient, if–

(i) the recipient is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and

(ii) the information is not held by the authority on behalf of another person."

(3) In subsection (5), after "disclosed in pursuance of", insert "any of paragraphs (a) to (e) of".

(**4**) 1963 c. 41, as amended by regulation 2(a) of, and Schedule 1 to, S.I. 1974/1943.
(**5**) 1968 c. 67, as amended by section 32(2) of the Magistrates' Courts Act 1980 (c. 43).
(**6**) 1974 c. 37. Subsection (1) of section 28 was amended by section 36 of, and Schedule 3 to, the Consumer Protection Act 1987 and section 105(2) of the Railways and Transport Safety Act 2003 (c. 20). Subsection (3)(a) was amended by section 120 of, and paragraph 30(6)(a) of Schedule 22 to, the Environment Act 1995 (c. 25). Subsection (3)(c) was amended by section 120 of, and paragraph 30(6)(b) of Schedule 22, and Schedule 24 to, the Environment Act 1995. Subsection (3)(c)(ii) was amended, in relation to England and Wales, by section 190 of, and paragraph 46 of Schedule 25 to, the Water Act 1989 (c. 15), and in relation to Scotland, by section 120 of, and paragraph 30(6)(c) of Schedule 22 to, the Environment Act 1995 and by article 2 of, and paragraph 8(a) of the Schedule to, S.I. 2004/1822. Subsection (3)(c)(iii) was repealed by section 120 of, and paragraph 30(6)(d) of Schedule 22, and Schedule 24 to, the Environment Act 1995. Subsection (5)(a) was amended by section 120 of, and paragraph 30(6)(f)(i) of Schedule 22 to, the Environment Act 1995. Subsection (5)(b) was amended, in relation to Scotland, by article 2 of, and paragraph 8(b) of the Schedule to, S.I. 2004/1822 and by section 120 of, and paragraph 30(6)(f)(ii) and (iii) of Schedule 22, and Schedule 24 to, the Environment Act 1995, and in relation to England and Wales, by section 190 of, and paragraph 46 of Schedule 25 to, the Water Act 1989.

(4) After subsection (9) insert–

"(9A) Subsection (7) above does not apply if–

(a) the person who has obtained any such information as is referred to in that subsection is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and

(b) the information is not held by the authority on behalf of another person."

Biological Standards Act 1975

6. Section 5 of the Biological Standards Act 1975(**7**) (restrictions on disclosure of information) is repealed.

National Health Service Act 1977

7. In Schedule 11 to the National Health Service Act 1977(**8**), after paragraph 5 (restrictions on disclosing information) insert–

"**5A.** Paragraph 5 above does not apply if–

(a) the person who has obtained any such information as is referred to in that paragraph is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and

(b) the information is not held by the public authority on behalf of another person."

Audit Commission Act 1998

8.—(1) The Audit Commission Act 1998(**9**) is amended as follows.

(2) In section 49 (restriction on disclosure of information)–

(a) in subsection (1), omit paragraph (e);

(b) after subsection (1), insert–

"(1A) Subsection (1) does not apply in relation to disclosure by a person who is, or acts on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000.".

(3) After section 49, insert–

"**Disclosure of information by or on behalf of public authorities**

49A.—(1) This section applies if information relating to a particular body or other person is obtained by the Commission or an auditor, or a person acting on behalf of the Commission or an auditor–

(**7**) 1975 c. 4, as amended by section 32(2) of the Magistrates' Courts Act 1980.

(**8**) 1977 c. 49. Schedule 11 has been repealed in relation to health service medicines by sections 38(6) and 65 of, and Schedule 5 to, the Health Act 1999 (c. 8).

(**9**) 1998 c. 18. Section 49 of the Audit Commission Act 1998 has been amended by section 22(3) and (5)(a) of the Local Government Act 1999 (c. 27). Subparagraphs (ba) and (bb) were inserted into subsection (1) by section 147 of, and paragraph 12(1) and (10)(a) of Schedule 9 to, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43). Subparagraph (c) of subsection (1) was amended by section 147 of, and paragraphs 12(1) and (10)(b) of Schedule 9 to, that Act. Subparagraph (da) of subsection (1) was inserted by section 66 of, and paragraphs 21 and 33 of Schedule 2 to, the Public Audit (Wales) Act 2004 (c. 23). The first subparagraph (dd) of subsection (1) was inserted by section 133 of, and paragraphs 1 and 11 of Schedule 8 to, the Greater London Authority Act 1999 (c. 29). The second subparagraph (dd) in subsection (1) was inserted by section 107 of, and paragraph 30 of Schedule 5 to, the Local Government Act 2000 (c. 22). The powers to disclose under subsection (1) were extended by section 17 of and paragraph 41 of Part I of Schedule 4 to, the Anti-Terrorism, Crime and Security Act 2001 (c. 24).