Draft 0rder 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

2002 No.

DATA PROTECTION

Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002

Made - - - -	*2002*
Coming into force - -	*2002*

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

Now, therefore, the Lord Chancellor, in exercise of the powers conferred upon him by section 67(2) of, and paragraph 10 of Schedule 3 to, the Data Protection Act 1998(**1**), and after consultation with the Information Commissioner(**2**) in accordance with section 67(3) of that Act, hereby makes the following Order:

1. This Order may be cited as the Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002 and shall come into force on the twenty-eighth day after the day on which it is made.

2. For the purposes of paragraph 10 of Schedule 3 to the Data Protection Act 1998, the circumstances specified in any of paragraphs 3, 4, 5 or 6 in the Schedule to this Order are circumstances in which sensitive personal data may be processed(**3**).

(**1**) 1998 c. 29. The functions of the Secretary of State under section 67 of, and paragraph 10 of Schedule 3 to, the Data Protection Act 1998 were transferred to the Lord Chancellor by Article 3 of, and paragraph 11 of Schedule 1 to, the Transfer of Functions (Miscellaneous) Order 2001 (S.I.2001/3500). Article 8 of, and paragraphs 6(v) and (z) of Schedule 2 to, that Order amended section 67 of, and Schedule 3 to, the Data Protection Act 1998 so as to refer to the Lord Chancellor.

(**2**) 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.

(**3**) Additional circumstances in which sensitive personal data may be processed are specified in the Data Protection (Processing of Sensitive Personal Data) Order 2000 (S.I. 2000/417).

Signed by the authority of the Lord Chancellor

Parliamentary Secretary,
2002 Lord Chancellor's Department

SCHEDULE Article 2

CIRCUMSTANCES IN WHICH SENSITIVE PERSONAL DATA MAY BE PROCESSED

Interpretation

1. In this Schedule, "elected representative" means—

(a) a Member of the House of Commons, a Member of the National Assembly for Wales, a Member of the Scottish Parliament or a Member of the Northern Ireland Assembly;

(b) a Member of the European Parliament elected in the United Kingdom;

(c) an elected member of a local authority within the meaning of section 270(1) of the Local Government Act 1972(**4**), namely—

(i) in England, a county council, a district council, a London borough council or a parish council,

(ii) in Wales, a county council, a county borough council or a community council;

(d) an elected mayor of a local authority within the meaning of Part II of the Local Government Act 2000(**5**);

(e) the Mayor of London or an elected member of the London Assembly;

(f) an elected member of—

(i) the Common Council of the City of London, or

(ii) the Council of the Isles of Scilly;

(g) an elected member of a council constituted under section 2 of the Local Government etc (Scotland) Act 1994(**6**); or

(h) an elected member of a district council within the meaning of the Local Government Act (Northern Ireland) 1972(**7**).

2. For the purposes of paragraph 1 above—

(a) a person who is—

(i) a Member of the House of Commons immediately before Parliament is dissolved,

(ii) a Member of the Scottish Parliament immediately before that Parliament is dissolved, or

(iii) a Member of the Northern Ireland Assembly immediately before that Assembly is dissolved,

shall be treated as if he were such a member until the end of the fourth day after the day on which the subsequent general election in relation to that Parliament or Assembly is held;

(b) a person who is a Member of the National Assembly for Wales and whose term of office comes to an end, in accordance with section 2(5)(b) of the Government of Wales Act 1998(**8**), at the end of the day preceding an ordinary election (within the meaning of section 2(4) of that Act), shall be treated as if he were such a member until the end of the fourth day after the day on which that ordinary election is held; and

(**4**) 1972 c. 70.
(**5**) 2000 c. 22.
(**6**) 1994 c. 39.
(**7**) 1972 c. 9 (N. I.).
(**8**) 1998 c. 38. Section 2(5) provides that "The term of office of an Assembly member—(a) begins when he is declared to be returned as an Assembly member, and (b) continues until the end of the day before the day of the poll at the next ordinary election." By section 2(4), "An ordinary election involves the holding of elections for the return of the entire Assembly."