

2012 No. 3001 (C. 119)

PUBLIC RECORDS

FREEDOM OF INFORMATION

**The Constitutional Reform and Governance Act 2010
(Commencement No. 7) Order 2012**

Made - - - - *29th November 2012*

The Secretary of State makes the following Order in exercise of the powers conferred by section 52(2) of the Constitutional Reform and Governance Act 2010^(a):

Citation and interpretation

1.—(1) This Order may be cited as the Constitutional Reform and Governance Act 2010 (Commencement No. 7) Order 2012.

(2) In this Order, “the 2010 Act” means the Constitutional Reform and Governance Act 2010.

Provisions of the 2010 Act coming into force on the day after the day on which this Order is made

2. The following provisions of the 2010 Act shall come into force on the day after the day on which this Order is made—

- (a) section 45(2) to (5) (transfer of records to Public Record Office); and
- (b) section 46(2) to (5) (freedom of information).

Provisions of the 2010 Act coming into force on 1st January 2013

3.—(1) The following provisions of the 2010 Act shall come into force on 1st January 2013—

- (a) section 45(1), except for the purpose specified in paragraph (2); and
- (b) section 46(1) and Schedule 7 (amendments of Freedom of Information Act 2000), so far as they are not already in force.

(2) The purpose referred to in paragraph (1)(a) is the transfer in accordance with section 3(4) of the Public Records Act 1958^(b) of records of a description set out in the Schedule to this Order.

(a) 2010 c. 25.
(b) 1958 c. 51.

29th November 2012

Tom McNally
Minister of State
Ministry of Justice

SCHEDULE

Article 3(2)

Descriptions of Records

Records of a prison, remand centre, secure training centre or young offender institution.

Records of a coroner's court.

Records of the Environment Agency, except board minutes or records which relate to the formulation or development of policy governing the work of the Environment Agency.

Records of a Family Practitioner Committee for localities in England.

Records of a Family Practitioner Committee for localities in Wales.

Records of the Forestry Commission, except board minutes or records which relate to the formulation or development of policy governing the work of the Forestry Commission.

Records of a health service hospital within the meaning of the National Health Service Act 1977(a), in England.

Records of a health service hospital within the meaning of the National Health Service (Wales) Act 2006(b).

Records of the Homes and Communities Agency that were formerly records of the Commission for New Towns or the Urban Regeneration Agency, except board minutes or records which relate to the formulation or development of policy governing the work of the Commission for New Towns or the Urban Regeneration Agency.

Records of a magistrates' court.

Records of the Maritime and Coastguard Agency.

Records of a National Health Authority including a Primary Care Trust, a National Health Service trust and a NHS foundation trust other than local health authorities and Authorities for districts or localities in Wales, or for areas in or consisting of Wales including National Health Service trusts all of whose hospitals, establishments and facilities are situated in Wales.

Records of a National Health Authority for districts or localities in Wales, or for areas in or consisting of Wales, including National Health Service trusts all of whose hospitals, establishments and facilities are situated in Wales.

Records of Natural England, except board minutes or records which relate to the formulation or development of policy governing the work of Natural England.

Records of any Rent Tribunal or Local Valuation Court.

(a) 1977 c. 49.

(b) 2006 c. 42.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force sections 45 (for specified purposes) and (so far as not already in force) 46 of, and Schedule 7 to, the Constitutional Reform and Governance Act 2010 (c. 25) (“the 2010 Act”).

Section 45(1)(a) of the 2010 Act reduces the period by the end of which public records are required by section 3(4) of the Public Records Act 1958 (c. 51) (“the 1958 Act”) to be transferred to the Public Record Office (which exercises its functions as part of The National Archives) or other place of deposit. In future, transfer will generally be required no later than the end of 20 years from the date on which the record was created, as opposed to 30 years. Section 45(1)(b) provides that, for a period of 10 years from the date of its commencement, this reduction takes effect subject to any transitional, transitory or saving provision made by order by the Secretary of State under section 45(2) to (5).

Article 3(1)(a) brings section 45(1) into force from 1st January 2013, except for the purposes of transferring records of a type specified in the Schedule to this Order. The specified records remain subject to the obligation to transfer records within 30 years of their creation. Article 2(a) brings the remainder of section 45 into force from the day after the day on which this order is made, to enable transitional provision to be made (by separate order) to coincide with the commencement of section 45(1)(a) and (b).

Under section 146 of the Government of Wales Act 2006 (c. 32) (“the 2006 Act”) Welsh public records (as defined by section 148 of that Act) are not public records under the 1958 Act. However, until an Order is made by the Lord Chancellor under section 147 of the 2006 Act transferring responsibility for Welsh public records to Welsh Ministers, such records remain subject to the 1958 Act (including the obligation to transfer under section 3(4)). Accordingly, this Order applies to those records as it does to public records within the meaning of the 1958 Act.

Article 3(1)(b) brings (so far as not already in force) section 46(1) and Schedule 7 into force from 1st January 2013 for all purposes. Paragraph 4 of Schedule 7 to the 2010 Act provides for a reduction in the period after expiry of which a record becomes a historical record for the purposes of the Freedom of Information Act 2000. Before commencement of paragraph 4, a record becomes a historical record at the end of a period of 30 years beginning with the year after that in which it was created. After commencement this period will be 20 years.

Paragraph 4 also provides that, for a period of 10 years from the date of its commencement, this reduction takes effect subject to any transitional, transitory or saving provision made by order by the Secretary of State. The remainder of Schedule 7 makes changes to the 2000 Act so that in some cases certain exemptions continue to apply to historical records until the 30 year, rather than the new 20 year, point.

Article 2(b) brings the remainder of section 46 into force from the day after the day on which this Order is made, with a view to enabling transitional provision as to be made (by separate order) to coincide with the commencement of section 46(1) and Schedule 7.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Constitutional Reform and Governance Act 2010 have been brought into force by commencement order made before the date of this order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1 to 25	11.11.2010	2010/2703
Section 26	19.4.2010	2010/1277
Section 27 and 28(1) to (3)	7.5.2010	2010/1277

Section 28(4)	27.7.2010	2010/1931
Section 29	24.5.2011	2011/1274
Section 30	7.5.2010	2010/1277
Section 31(1) to (5)	27.7.2010	2010/1931
Sections 31(6) and 32	7.5.2010	2010/1277
Sections 33 to 35	27.7.2010	2010/1931
Section 36	7.5.2010	2010/1277
Section 37	7.5.2010	2010/1277
Section 38, in part	19.5.2010 and 7.5.2010	2010/1277
Section 38, in part	27.7.2010	2010/1931
Section 38, so far as not already in force	24.5.2011	2011/1274
Section 39	24.5.2011	2011/1274
Section 40, in part	24.10.2011	2011/2485
Sections 43 and 44	11.11.2010	2010/2703
Section 46(1), in part	19.1.2011	2011/46
Schedule 3	19.4.2010	2010/1277
Schedule 4	27.7.2010	2010/1931
Schedule 5, paragraphs 1, 2(b), 4(1) and 2(a), 5(1) and (3), 7(1) and 7(4), in part	19.4.2010	2010/1277
Schedule 5, paragraphs 2(a), 3, 4(2)(b), 5(2), 6, and 7(2), (3)(c) and (4)(c)	7.5.2010	2010/1277
Schedule 5, paragraphs 4(3) 7(3)(b), 4(b), 4(d), so far as not already in force, and (5)	27.7.2010	2010/1931
Schedule 6: Part 1, Part 2 and paragraph 35(1) and (2), paragraphs 36, 37 and 42 to 46, paragraph 47(1), paragraph 47(2), in part, paragraph 47(3) and paragraphs 48 to 50	24.10.2011	2011/2485
Schedule 7, paragraphs 1 to 3, 5(2)(b), in part, 5(4), in part, and paragraph 6, in part	19.1.2011	2011/46

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