

From the Office of the Minister



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**Sir Michael Scholar KCB
Chair of the UK Statistics Authority
Statistics House
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Our ref: SUB 26/09

19 **January 2009**

Dear Sir Michael,

CONSULTATION ON PRE-RELEASE ACCESS ORDER (NORTHERN IRELAND)

The Department of Finance and Personnel (DFP) is currently developing legislation on pre-release access to Northern Ireland devolved Official Statistics under powers conferred by Section 11 of the Statistics and Registration Service Act 2007.

Before making such an order the legislation requires that the Department consults the United Kingdom Statistics Authority on its proposals. I would therefore welcome your views on the principles and rules relating to the granting of access to Northern Ireland devolved official statistics before bringing the proposals to the DFP Committee.

I attach a draft of the Pre-release Access to Official Statistics Order (Northern Ireland) 2009. The legislation proposed for Northern Ireland largely mirrors that brought forward by the Cabinet Office at UK level and proposes a pre-release access period of 24 hours.

I would very much appreciate if you would give any views by 30th January so that they can be considered before going to Committee.

*Sincerely,
Nigel Dodds*

NIGEL DODDS OBE MP MLA

2009 No.

OFFICIAL STATISTICS

**The Pre-release Access to Official Statistics Order
(Northern Ireland) 2009**

Made - - - - - 2009

Coming into operation 1st April 2009

The Department of Finance and Personnel for Northern Ireland makes this Order in exercise of the powers conferred by section 11(2), (4), (5) and (6) of the Statistics and Registration Service Act 2007(a).

In accordance with section 11(7) of that Act the Department of Finance and Personnel for Northern Ireland has consulted the Statistics Board(b), the Minister for the Cabinet Office, the Scottish Ministers and the Welsh Ministers.

In accordance with section 65(9)(b) of that Act The Interpretation Act (Northern Ireland) 1954(c) shall apply to the Order as it applies to an Act of the Northern Ireland Assembly.

Citation, commencement and extent

1.—(1) This Order may be cited as the Pre-release Access to Official Statistics Order (Northern Ireland) 2009 and comes into force on 1st April 2009.

(2) It extends to Northern Ireland only.

Pre-release access — wholly Northern Ireland devolved official statistics

2. The Schedule sets out the rules and principles relating to the granting of pre-release access to official statistics that are wholly Northern Ireland devolved statistics.

Sealed with the Official Seal of the Department of Finance and Personnel on 2009.

(L.S.)

Name

A Senior Officer of the Department of Finance and Personnel

(a) 2007 c.18 (“the 2007 Act”)
(b) The Statistics Board is also known as the UK Statistics Authority
(c) 1954 c. 33 (N.I.)
(d) 1998 c. 47

PART 1

GENERALLY APPLICABLE RULES AND PRINCIPLES

1. Pre-release access to official statistics in their final form prior to publication may only be granted in accordance with the rules and principles set out in this Schedule.

2. Only the person responsible may grant pre-release access.

3.—(1) The person responsible—

(a) may only grant pre-release access where to deny such access would, in the opinion of the person responsible, significantly impede—

- (i) the provision of responses to questions or the making of statements about an official statistic at or shortly after the time of publication of that statistic; or
- (ii) the taking of action before, at the time of or shortly after publication of that statistic;

(b) may only grant pre-release access to an eligible person;

(c) may only grant pre-release access if in the opinion of the person responsible the public benefit likely to result from such access outweighs the detriment to public trust in official statistics likely to result from such access;

(d) is required to restrict pre-release access to the minimum number of persons consistent with the need for pre-release identified within paragraph (a);

(e) may, when deciding whether to grant pre-release access to an eligible person, take into account any failure by that person, in relation to a previous grant of pre-release access, to comply with paragraph 6, paragraph 7 or any conditions imposed by the person responsible;

(f) may grant pre-release access subject to conditions.

(2) For the purposes of this paragraph “eligible person” means—

(a) a Northern Ireland Minister, including the First Minister and Deputy First Minister in Northern Ireland;

(b) a member of the Northern Ireland Assembly appointed as a junior Minister under section 19 of the Northern Ireland Act 1998;

(c) a Minister of the Crown;

(d) the head of a government department;

(e) a member of the Scottish Executive;

(f) a junior Scottish Minister;

(g) a member of the Welsh Assembly Government;

(h) a person who, in the opinion of the person responsible, is otherwise accountable to the public for the formulation or development of government policy or for the delivery of public services to which the statistic has direct relevance; or

(i) a person who needs pre-release access in order to advise a person referred to in any of paragraphs (a) to (h).

(3) For the purposes of this paragraph, “government policy” includes the policy of the Executive Committee of the Northern Ireland Assembly, the policy of the Scottish Administration, the policy of the Welsh Assembly Government and the policy of the UK Government.

4. Subject to paragraph 5, the person responsible may not grant pre-release access for a period in excess of 24 hours prior to the time set for the publication of an official statistic.

5.—(1) In exceptional circumstances only, the person responsible may grant pre-release access to—

(a) an eligible person for a period in excess of 24 hours prior to the time set for the publication of an official statistic if in the opinion of the person responsible the public benefit likely to result from such access significantly outweighs the detriment to public trust in official statistics likely to result from such access;

- (b) a person who is not an eligible person (either within the period of 24 hours prior to the time set for the publication of an official statistic or before this period) if an eligible person who has been granted pre-release access to an official statistic makes representations to the person responsible that pre-release access is needed for the purposes of paragraph 3(1)(a)(ii) in relation to that statistic.
 - (2) Where pre-release access is granted under sub-paragraph (1)(b), the person responsible must be satisfied that—
 - (a) the public benefit likely to result from such access (including the timing of such access) significantly outweighs the detriment to public trust in official statistics likely to result from such access; and
 - (b) the person to whom pre-release access is granted is the appropriate person to take the action referred to in paragraph 3(1)(a)(ii).
 - (3) A person who receives pre-release access under sub-paragraph (1)(b) is an eligible person only for the purposes of paragraphs 6, 7 and 8.
 - (4) Where pre-release access is granted under this paragraph the person responsible must—
 - (a) publish the reasons for granting such access; and
 - (b) inform the Statistics Board.
 - (5) For the purposes of this paragraph—
 - (a) paragraph 3(1)(b) does not apply to sub-paragraph (1)(b),
 - (b) paragraph 3(1)(c) does not apply.
- 6.—**(1) An eligible person who receives pre-release access must not disclose—
- (a) the statistic,
 - (b) any part of a publication where that part includes that statistic, or
 - (c) any suggestion of the size or direction of any trend indicated by that statistic,
- until after the official statistic has been published.
- (2) An eligible person who receives pre-release access must not use that access—
- (a) for personal gain;
 - (b) to take any action (other than the preparation of responses or statements as referred to in paragraph 3(1)(a)(i)) for political advantage.
- 7.—**(1) An eligible person who receives pre-release access must not use such access to change or compromise—
- (a) the content or presentation of the official statistic;
 - (b) the timing of publication of the official statistic.
- (2) This paragraph does not prevent an eligible person from communicating to the person responsible any numerical or typographical error in the composition or presentation of the official statistic.
- 8.** The person responsible may only grant pre-release access to market sensitive official statistics to an eligible person (“P”) who has signed a declaration that P undertakes, in relation to any such statistics to which P is granted pre-release access, to comply with paragraphs 6 and 7 together with any specific conditions subject to which such access is granted.
- 9.** The person responsible must publish—
- (a) a list of all official statistics at least annually to which that person has granted pre-release access;
 - (b) arrangements made by the person responsible to ensure compliance with this Schedule including, where appropriate, the role of the Senior Statisticians in Departments.
- 10.—**(1) Nothing in this Schedule prevents access to official statistics in their final form prior to publication by a person directly involved in the production of the publication, whether electronic

or in hard copy, by which such statistics are to be published providing such access is used only for those purposes.

(2) A person mentioned in sub-paragraph (1) is an eligible person only for the purposes of paragraphs 6 and 7.

11.—(1) Nothing in paragraphs 6, 7 and 8 prevents an eligible person who receives pre-release access sharing such access to the official statistic with a person providing administrative support (of a type not within paragraph 3(2)(i) or 14(3)(k)) to that eligible person.

(2) A person providing administrative support under sub-paragraph (1) is an eligible person only for the purposes of paragraphs 6 and 7.

PART 2 SPECIAL PROVISIONS

International obligations

12.—(1) The person responsible may grant pre-release access to permit Northern Ireland to comply with its international obligations to provide data to international statistical organisations.

(2) Part 1, except for paragraph 2, does not apply to the granting of pre-release access under this paragraph.

Journalists

13.—(1) If the person responsible is satisfied that a person is a bona fide representative of a news gathering or news reporting organisation, the person responsible may grant pre-release access to that person for up to a maximum period of 24 hours prior to publication of an official statistic.

(2) The person responsible may grant such pre-release access if, in the opinion of the person responsible, such access—

- (a) is necessary for bona fide representatives of news gathering or news reporting organisations to understand the statistic and, where relevant, a statistical publication which includes that statistic, and
- (b) is likely to facilitate well-informed debate.

(3) The person responsible may only grant pre-release access if in the opinion of the person responsible the public benefit likely to result from such access outweighs the detriment to public trust in official statistics likely to result from such access.

(4) Such access must be kept to the minimum time prior to publication necessary to achieve the purposes of sub-paragraph (2).

(5) The person responsible may, when deciding whether to grant pre-release access to a person under this paragraph, take into account any failure by that person, in relation to a previous grant of pre-release access, to comply with paragraph 6, paragraph 7 or any conditions imposed by the person responsible.

(6) The person responsible may impose such conditions on the granting of pre-release access as the person responsible considers appropriate including.

- (a) that pre-release access must take place in such secure location as may be specified by the person responsible and that no communication equipment may be used at that location except as may be permitted by the person responsible; or
- (b) without prejudice to paragraph 8, that a person to whom pre-release access under this paragraph is intended to be granted and before such access is granted must agree to comply with any conditions imposed by the person responsible.

(7) Part 1, except for paragraphs 2, 6, 7, 8 and 9, does not apply to the granting of pre-release access under this paragraph.

(8) For the purposes of this paragraph, paragraphs 6, 7 and 8 of Part 1 apply to a person to whom pre-release access is granted under this paragraph as they apply to an eligible person.

Third party publications

14.—(1) The person responsible may grant pre-release access for the purpose of a publication where, in the opinion of the person responsible, the official statistic is relevant to the subject-matter of the publication and the inclusion of the official statistic in the publication will significantly improve the accuracy or usefulness of information contained in the publication.

(2) Such pre-release access may only be granted if the publication is intended to be published at the same time as or shortly after the official statistic to which pre-release access is being granted under this paragraph is to be published.

(3) The person responsible may only grant such access to—

- (a) a Northern Ireland Minister, including the First Minister and Deputy First Minister in Northern Ireland;
- (b) a member of the Northern Ireland Assembly appointed as a junior Minister under section 19 of the Northern Ireland Act 1998;
- (c) a Minister of the Crown;
- (d) the head of a government department;
- (e) a member of the Scottish Executive;
- (f) a junior Scottish Minister;
- (g) a member of the Welsh Assembly Government;
- (h) Chief Statisticians in the Devolved Administrations;
- (i) the National Statistician;
- (j) an officer, servant or agent of a person or body which produces official statistics;
- (k) a person who, in the opinion of the person responsible, is otherwise accountable to the public for the formulation or development of government policy or for the delivery of public services to which the statistic has direct relevance;
- (l) a person who needs pre-release access in order to advise a person referred to in any of paragraphs (a) to (k).

(4) The number of persons to whom pre-release access is granted under this paragraph must be kept to the minimum necessary for achieving the purpose referred to at sub-paragraph (1).

(5) Such access must be kept to the minimum time prior to publication necessary for the inclusion of the statistic in the publication.

(6) The person responsible must not grant pre-release access under this paragraph unless in the opinion of the person responsible the public benefit likely to result from granting such access outweighs the detriment to public trust in official statistics likely to result from granting such access.

(7) The person responsible may, when deciding whether to grant pre-release access to a person listed in sub-paragraph (3), take into account any failure by that person, in relation to a previous grant of pre-release access, to comply with paragraphs 6 and 7.

(8) Paragraphs 3 to 5 of Part 1 do not apply to the granting of pre-release access under this paragraph.

(9) For the purposes of this paragraph, paragraphs 6, 7, 8 and 11 of Part 1 apply to a person listed at sub-paragraph (3) as they apply to an eligible person.

(10) For the purposes of this paragraph, “government policy” includes the policy of the Executive Committee of the Northern Ireland Assembly, the policy of the Scottish Administration, the policy of the Welsh Assembly Government and the policy of the UK Government.

PART 3

INTERPRETATION

15. In this Schedule, “market sensitive official statistics” means official statistics which when disclosed would, in the opinion of the person responsible, be reasonably likely to have a significant effect on the value or traded volume of any investment.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the rules and principles relating to the granting of pre-release access to official statistics that are wholly Northern Ireland devolved statistics. Official statistics are defined in section 6 of the Statistics and Registration Service Act 2007 (the Act).

The rules and principles are set out in the Schedule and describe the persons who may receive pre-release access to official statistics, the circumstances in which access may be given, and the obligations of the persons giving and receiving such access.

A decision whether to grant pre-release access is taken by the person responsible. Pre-release access is defined in section 11(8) of the Act. The person responsible is defined in section 67 of the Act.

Part 1 sets out the rules and principles which are generally applicable to the granting of pre-release access to official statistics. Pre-release access to official statistics can be given for a maximum of 24 hours unless there are exceptional circumstances.

Part 2 makes special provision in relation to international obligations, journalists and third party publications.

A regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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The Pre-release Access to Official Statistics Order
(Northern Ireland) 2009

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