
EXPLANATORY NOTE

(This note is not part of the Order)

This Order sets out rules and principles to be followed in respect of allowing certain people to have advance sight of certain types of statistics before they are officially published. This type of access is referred to in this Order, and in the Act under which the Order is made, as pre-release access.

This Order is made under section 11 of the Statistics and Registration Service Act 2007 (c. 18) (“the Act”). That section allows the “appropriate authority” to provide, for the purposes of the Code of Practice for Statistics under section 10 of the Act, for rules and principles relating to the granting of pre-release access to official statistics.

The Code of Practice for Statistics under section 10 of the Act is prepared and published by the Statistics Board (“*Y Bwrdd Ystadegau*”). The effect of section 11(1) of the Act is that the Code is not itself allowed to deal with rules and principles relating to the granting of pre-release access. Those rules and principles are to be set by the appropriate authority making an Order under section 11.

Section 11(6)(c) of the Act provides that the Welsh Ministers are the “appropriate authority” in relation to official statistics that are wholly Welsh devolved statistics. “Official statistics” is defined in section 6(1) of the Act and “Welsh devolved statistics” is defined in section 66(3).

“Pre-release access” in relation to official statistics is defined in section 11(8) and means access to the statistics in their final form prior to publication.

The rules and principles provided for by the Order are set out in the Schedule. Article 3 of the Order provides that, subject to the exception set out in article 3(4), the Schedule applies to statistics which meet all of the criteria of being official statistics, wholly Welsh devolved statistics and either designated as National Statistics or awaiting a determination as to whether they are designated as National Statistics. The exception in article 3(4) applies where statistics are released for the sole purpose of producing the publication in which they are to be published.

The Statistics Board has the function under section 12(2) of the Act of designating official statistics as National Statistics. The Board was established by the Act. Prior to the establishment of the Board and the commencement of section 12, the Office for National Statistics designated official statistics as National Statistics. Section 12(8) of the Act provides that official statistics which were designated as National Statistics before the commencement of section 12 are to be regarded for the purposes of Part 1 of the Act as if they had been designated as National Statistics under section 12(2).

Paragraph 1(1) of the Schedule provides that, subject to the provisions of the Order, the person responsible may grant pre-release access only to the extent that, they consider it necessary to grant access to a particular identifiable individual in order to achieve a purpose which is one of those mentioned in paragraphs 1(1)(a) to (h). The “person responsible” is defined in section 67 of the Act.

Paragraph 1(2) provides that, before granting pre-release access, the person responsible must be satisfied that arrangements are in place to inform the individual to whom they grant pre-release access of the ground in paragraphs 1(1)(a) to (h) under which access is granted, and of the requirements set out in paragraph 5 to which that individual will be subject.

Paragraph 1(3) is for the purposes of the meaning of paragraphs 1(1)(a) to (c).

Paragraph 2 provides that where the person responsible grants pre-release access they must make the grant to a particular individual who can be identified. For example, a grant to “the First Minister for Wales” would meet this requirement, but a grant to “the Welsh Local Government Association” would not.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Paragraph 3 requires the person responsible to ensure that when statistics to which they have granted pre-release access are released, the statistics must be accompanied by the information as set out in paragraphs 3(a) to (c).

Subject to the remainder of the provisions in paragraph 4, paragraphs 4(1)(a) and (b) impose maximum limits on how far in advance of their publication the person responsible may release statistics under the Order.

In the case of market-sensitive statistics, the statistics must not be released earlier than 24 hours before the time at which it is intended they will be published. "Market-sensitive statistics" is defined in article 2 of the Order.

In the case of statistics which are not market-sensitive, they must not be released earlier than the fifth day before the date on which it is intended they will be published.

The effect of paragraph 4(1)(c) is that in the case of statistics which are market sensitive and those which are not, they must not be released earlier than the person responsible considers is necessary to fulfil the purpose for which pre-release access is granted.

Paragraph 4(6) applies for the purposes of calculating the earliest point at which the statistics can be released. Its effect is that certain days, such as those which fall on weekends, are to be disregarded in carrying out the calculation.

Paragraph 4(2) disapplies the maximum time limits where pre-release access is granted under paragraph 1(1)(d).

Paragraph 4(3) has the effect of allowing the person responsible to release statistics earlier than the maximum periods provided for in paragraphs 4(1)(a) and (b). However, the person responsible can do so only if the conditions set out in paragraphs 4(3)(a) and (b) are met.

Paragraph 4(4) requires the person responsible to notify the Statistics Board, and to provide the Board with certain information, if the person responsible gives access earlier than the maximum periods provided for in paragraphs 4(1)(a) and (b).

The effect of paragraph 4(5) is that, if the person responsible grants pre-release access under paragraph 1(1)(d), and gives access earlier than the maximum periods provided for in paragraphs 4(1)(a) and (b), the person responsible has to comply with the notification requirement in paragraph 4(4), even though paragraph 4(2) has disapplied the maximum periods in paragraphs 4(1)(a) and (b) to cases where access has been granted under paragraph 1(1)(d).

Paragraph 5 imposes requirements on individuals who have been granted pre-release access by the person responsible, and on those who have had statistics disclosed to them under paragraph 6 (disclosure for the purposes of enabling the provision of administrative and technical support.) These requirements relate mainly to prohibiting further disclosures of the statistics, limiting their use, requiring reasonable steps to be taken to safeguard their security and requiring all reasonably practicable steps to be taken to notify the person responsible if that security is breached.

Paragraph 6 permits an individual who has been granted pre-release access to statistics under one of paragraphs 1(1)(a) to (g) to disclose those statistics to an individual who provides them with administrative or technical support. However, the disclosure must be one which is necessary to enable that support to be provided, and must be made solely for that purpose. An individual who has been granted access under paragraph 1(1)(h) cannot make a further disclosure of the statistics using this provision.

Paragraph 7 requires the person responsible to notify the Statistics Board, and provide the Board with certain information, where the person responsible has granted pre-release access under paragraph 1(1)(h).

Paragraph 8 requires the person responsible, where they are considering granting pre-release access to a particular individual, to take into account in their decision any evidence of which they are aware which, in their opinion, indicates any of the matters set out in paragraphs 8(a) to (d). The matters

relate to previous non-compliance with the requirements of paragraph 5, and previous disclosures of statistics or their content.

Paragraph 9(1) requires the person responsible to make, as soon as is reasonably practicable, records relating to grants of pre-release access made by them. Those records must contain information as set out in paragraphs 9(1)(a) to (k).

Paragraph 9(2) requires the person responsible to retain the records for at least 7 years from the date of the publication of the statistics to which they relate.

Paragraph 10(1) requires the person responsible to ensure that each year, on 1 January or as soon as is reasonably practicable after that date, there is published a list of the names of the statistics to which they have granted pre-release access in the twelve months immediately prior to that date.

Paragraph 10(2) requires the person responsible to ensure that there are arrangements in place towards ensuring that statistics in respect of which they are the person responsible, and to which the Schedule to this Order applies, are dealt with in accordance with this Order.

Paragraphs 10(3) and (4) require the person responsible to ensure that there is a published explanation of the arrangements mentioned in paragraph 10(2), and that the published explanation is updated to reflect changes to those arrangements.

Paragraph 11(1) places a requirement on the person responsible to provide information, within a specified time limit, in response to certain requests for certain information contained within records they have made for the purposes of paragraph 9. In order for this obligation on the person responsible to arise, the requested information must meet the criteria set out in paragraph 11(2) and the request must meet the criteria set out in paragraph 11(3).