

## Access denied to the laws that govern us

Imagine having to pay to know if you are breaking a law. Soon you will, if the government has its way Heather Brooke

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Shhh - don't pass it on. It's the kind of secrecy one might expect for a database of proposed nuclear reactors or plans to go to war. But a database containing the laws of the land? Surely the only way to obey the law is to know what it is in the first place? On August 2, the government rolled out the second stage of a long-delayed project to make the consolidated law of parliament accessible to the people. So how does it look? The public - who paid for the whole project - can't get a look in.

No free public access sites have been granted permission to view the current system and testers of the database - predominantly from commercial legal publishing firms - have been told not to share their login and password. Even so, some testers are not entirely happy with what they've found after logging on to the top secret database of our country's laws.

Firstly, an astounding Crown copyright notice greets the reader: "The Statute Law Database and the material on the SLD website are subject to Crown copyright protection. The Crown copyright waiver that applies to published legislation generally does not apply to SLD because it is a value-added product. Any reuse of material from SLD will be the subject of separate and specific licensing arrangements. No such arrangements have yet been entered into. Users should not therefore reproduce or reuse any material from SLD until further guidance is issued."

Democracy advocates outraged

No matter that the value was added by public officials at taxpayer expense. Small commercial legal publishers and democracy advocates are outraged. "It is appalling that a government feels it should sell the laws it makes to the general public who must obey them," said developer Francis Irving, who last month won two New Statesman new media awards for his web sites [www.writetothem.com](http://www.writetothem.com) (the contribution to civic society award) and [www.pledgebank.com](http://www.pledgebank.com) (advocacy award). "Because the DCA's data cannot be reproduced, it makes it impossible for anyone else to compete by providing new and innovative ways of accessing and learning the law."

Irving had hoped to create a free, user-friendly legal database to rival his previous successes. As such he filed Freedom of Information Act requests last year asking for the raw data held by the Department for Constitutional Affairs. Instead of thanking Irving for his interest, the DCA denied his request. Matthew Elliot, the chief executive of the Taxpayers' Alliance, is appalled by the government's response: "Any information collected by the government at taxpayers' expense should be freely available to the public. If private organisations are willing to collate information at no expense to the taxpayer, why on earth is the government spending money doing exactly the same thing?"

DCA spokesman Alfred Bacchus says that the copyright notice is only for the pilot system. "For live running it will be suitably amended. We have always quoted that there will be a level of free access for the general public but there may be a charge against some of the value added data (defined under the terms of the Treasury's Wider Markets Initiative) depending on the outcome of the commercial strategy. This is being discussed at the moment."

It isn't as though the government has lacked time to produce a taxpayer-funded database. In 1991, it awarded a contract to Syntegra Ltd - a BT company, previously Secure Information Systems Ltd - to build the legal database. "Since that time little information has been released about the project, though regular assurances have been given as to its progress and, since 1995, as to it being publicly available 'next year'," says Nick Holmes, managing director of Infolaw, an online legal resource.

The Syntegra project was delivered in November 1993, though not formally accepted until Summer 1995, at a cost of £700,000. "It is not clear what was delivered at that time, nor what happened to the project for the next several years," Holmes says. Despite spending an unknown amount of public money, it now appears the DCA plans to charge the public to access the data. Current law will be freely accessible, but historical law will not. So, for example, if you are selling a house you bought 10 years ago, you would have to pay to find out the laws in force at that time. "Why the man in the street has to pay to see the law even as it was 10 years ago is hard to understand," Holmes says. "Potentially, that's relevant to everyone, not just lawyers."

US law is copyright free

This is not how it could, or should, have happened. In the US, where information compiled at public expense by public officials is copyright free, the public has had access to consolidated law for decades. Since 1992, the Legal Information Institute at Cornell University in New York has been the leading online resource for US law and Supreme Court decisions. "The raw material for our United States Code collection is provided us by the law revision counsel's office in the House of Representatives," says institute director Thomas R Bruce. "They have actively helped us with the things we publish."

Even Canada, which inherited Crown copyright from us, provides its citizens free access to parliamentary law. In the mid-90s the University of Montreal, which now operates the Canadian Legal Information Institute, set out to remove copyright limits on the distribution of law. It succeeded and the Reproduction of Federal Law Order was issued in late 1996.

Meanwhile, in the UK, we're still suffering under the yoke of Crown copyright. "This copyright situation manages to be bad for business, bad for lawyers, bad for the general public and bad for our freedom all at the same time," Irving said.

Heather Brooke is the author of Your Right to Know

Where is the law?

The most accurate and comprehensive sources for British law all cost money - and lots of it.

LexisNexis and Sweet & Maxwell (Westlaw): These are the only two private sector publishers that provide a substantially comprehensive set of consolidated legislation. Out of reach for all but the wealthiest law firms.

Halsbury's Statutes: Available in hard copy or online. Authoritative and updated, found only in major public libraries or private law libraries.

Justis (justis.com): A paid-for resource containing the laws as they were published (unconsolidated) going back many hundreds of years.

Where to find the law for free

Office of Public Sector Information ([tinyurl.com/gtcse](http://tinyurl.com/gtcse)): Access to "as-enacted" (ie, unconsolidated) legislation published by HMSO since 1987.

BAILII ([bailii.org](http://bailii.org)): Republished OPSI data with free value-added search facilities and hyperlinks. Again, this is incomplete and unconsolidated, so its utility is very limited.

Citizens Advice Bureaux ([adviceguide.org.uk](http://adviceguide.org.uk)): Some good basic factual information on major laws. For more detailed guidance you need to speak to a CAB advisor.

HM Court's Service ([hmcourtsservice.gov.uk](http://hmcourtsservice.gov.uk)): Provides major case judgments. Tribunals tend to do better and most publish all their decisions. Some tribunals have their own websites.

Public Libraries: Most libraries simply don't stock accurate updated legal reference tools because of their extortionate cost. Specialised law libraries are not free for public access.

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