Number 30 *of* 2014

Freedom of Information Act 2014

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FREEDOM OF INFORMATION ACT 2014

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Údarás na Gaeltachta Act 1979 (No. 5)

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Western Development Commission Act 1998 (No. 42)

Number 30 *of* 2014

Freedom of Information Act 2014

An Act to enable members of the public to obtain access, to the greatest extent possible consistent with the public interest and the right to privacy, to information in the possession of public bodies, other bodies in receipt of funding from the State and certain other bodies and to enable persons to have personal information relating to them in the possession of such bodies corrected and, accordingly, to provide for a right of access to records held by such bodies, for necessary exceptions to that right and for assistance to persons to enable them to exercise it, to provide for the independent review both of decisions of such bodies relating to that right and of the operation of this Act generally (including the proceedings of such bodies pursuant to this Act) and, for those purposes, to provide for the continuance of the office of Information Commissioner and to define its functions, to provide for the publication by such bodies of certain information about them relevant to the purposes of this Act, to repeal the Freedom of Information Act 1997 and the Freedom of Information (Amendment) Act 2003, to amend the Central Bank Act 1942, to amend the Official Secrets Act 1963, to repeal certain other enactments, and to provide for related matters. [14*th October*, 2014]

Be it enacted by the Oireachtas as follows:

PART 1

Preliminary and General

Citation and commencement

1. (1) This Act may be cited as the Freedom of Information Act 2014.

(2) Subject to *subsections (3)* and *(4)*, this Act shall come into operation on enactment.

(3) This Act shall come into operation—

(a) in respect of any body or other person that, immediately prior to enactment, was a public body within the meaning of the Act of 1997, on enactment,

(b) in respect of any body or other person that, immediately prior to enactment, was not a public body within the meaning of the Act of 1997, but is a public body within the meaning of this Act, 6 months from enactment or on such later day, not later than 12 months from enactment, as the Minister may by order appoint.

(4) *Section 8* shall come into operation 12 months from enactment or on such earlier day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision of that section and different days may be so appointed for different purposes or different provisions.

(5) In this section "enactment" means the date of enactment of this Act.

Interpretation

2. (1) In this Act—

"Act of 1997" means the Freedom of Information Act 1997;

"commencement of this Act" means the time at which this Act comes into operation in relation to the FOI body concerned;

"Commissioner" means the office of Information Commissioner continued in being by *section 43* or the holder of that office, as the case may be;

"determined" means determined by the Minister and, in relation to a form, means determined having had appropriate regard to the needs of requesters;

"director" means a director (within the meaning of the Companies Acts) but includes in the case of—

(a) a local authority,

(b) the Health Service Executive,

(c) a public body that is not a company (within the meaning of the Companies Acts), or

(d) a prescribed body,

a person who is a member of any board or other body that controls, manages or administers an entity mentioned in *paragraphs (a)* to *(d)*;

"effective date" means:

(a) in the case of an entity that immediately prior to enactment of this Act was a public body within the meaning of the Act of 1997 (other than the Health Service Executive or a local authority), 21 April 1998;

(b) in the case of the Health Service Executive or a local authority, 21 October 1998;

(c) in the case of an entity that immediately prior to enactment of this Act, was not a public body within the meaning of the Act of 1997, but is a public body within the meaning of this Act, 21 April 2008, unless provision is made to the contrary by order under *section 6*;

(d) in the case of a prescribed body, the date that the order prescribing the body under *section 7(1)* is made, other than where a later date is specified in that order;

"electronic device" includes any device which uses any electrical, digital, magnetic, optical, electromagnetic, biometric or photonic means, or other forms of related technology, or any combination thereof, to store or transmit data, or both store and

transmit data;

"enactment" means a statute or an instrument made under a power conferred by a statute;

"entity" means a person, body of persons, organisation or group;

"exempt record" means—

(a) a record in relation to which the grant of an FOI request would be refused pursuant to *Part 4* or by virtue of *Part 5*, or

(b) a record that is created for or held by an office holder and relates to the functions or activities of—

(i) the office holder as a member of the Oireachtas or a political party, or

(ii) a political party;

"factual information" includes information of a statistical, financial, econometric or empirical nature, together with any analysis thereof;

"FOI body" means a public body or a prescribed body;

"FOI request" means a request for access to a record pursuant to *section 12*;

"give" includes send, whether by post, electronic or other means;

"head" means head of an FOI body;

"head of an FOI body" means—

(a) in relation to a Department of State, the Minister of the Government having charge of it,

(b) in relation to the Office of the Attorney General, the Attorney General,

(c) in relation to the Office of the Director of Public Prosecutions, the Director of Public Prosecutions,

(d) in relation to the Office of the Comptroller and Auditor General, the Comptroller and Auditor General,

(e) in relation to the Office of the Ombudsman, the Ombudsman,

(f) in relation to the Office of the Information Commissioner, the Commissioner,

(g) in relation to the Financial Services Ombudsman's Bureau, the Financial Services Ombudsman,

(h) in relation to the Office of the Local Appointments Commissioners, the Local Appointments Commissioners,

(i) in relation to the Houses of the Oireachtas Service, the Chairman of Dáil Éireann,

(j) in relation to the Houses of the Oireachtas Commission, its chairperson,

(k) in relation to the Office of the Ombudsman for Children, the Ombudsman for Children,

(l) in relation to the Office of the Pensions Ombudsman, the Pensions Ombudsman,

(m) in relation to the Office of the Legal Services Ombudsman, the Legal Services Ombudsman,

(n) in relation to the Garda Síochána, the Garda Commissioner,

(o) in relation to the Garda Síochána Ombudsman Commission, its chairperson, and

(p) in relation to any other FOI body, the person who holds, or performs the functions of, the office of chief executive officer (by whatever name called) of the body;

"local authority" means a local authority for the purposes of the Local Government Act 2001;

"Minister" means the Minister for Public Expenditure and Reform;

"network and information security" means the ability of a network and information system to resist accidental or malicious action that compromises the availability, authenticity, integrity and confidentiality of stored or transmitted data or the related services offered by or accessible via that network and information system;

"office", in relation to a person, means the offices in which the administration and business relating to the functions of the person are carried on;

"office holder" means—

(a) a person who is a Minister of the Government or a Minister of State, or

(b) a member of either House of the Oireachtas who holds the office of Attorney General;

"personal information" means information about an identifiable individual that, either—

(a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or

(b) is held by an FOI body on the understanding that it would be treated by that body as confidential,

and, without prejudice to the generality of the foregoing, includes—

(i) information relating to the educational, medical, psychiatric or psychological history of the individual,

(ii) information relating to the financial affairs of the individual,

(iii) information relating to the employment or employment history of the individual,

(iv) information relating to the individual's membership or former membership of a trade union,

(v) information relating to the individual in a record falling within *section 11(6)(a)*,

(vi) information relating to any criminal history of, or the commission or alleged commission of any offence by, the individual,

(vii) information relating to any proceedings for an offence committed, or alleged to have been committed, by the individual, the disposal of such proceedings or the sentence imposed by any court in such proceedings,

(viii) information relating to the religion, age, racial or ethnic origin, sexual orientation or civil status (within the meaning of section 2(1) of the Civil Registration Act 2004) of, any disability of, or the political opinions or the religious or philosophical beliefs of, the individual,

(ix) a number, letter, symbol, word, mark or other thing assigned to the individual by an FOI body for the purpose of identification or any mark or other thing used for that purpose,

(x) information relating to the entitlements of the individual under the Social Welfare Acts as a beneficiary (within the meaning of the Social Welfare Acts) or required for the purpose of establishing whether the individual, being a claimant (within the meaning of those Acts), is such a beneficiary,

(xi) information required for the purpose of assessing the liability of the individual in respect of a tax or duty or other payment owed or payable to the State or to a local authority, the Health Service Executive or other FOI body, or for the purpose of collecting an amount due from the individual in respect of such a tax or duty or other payment,

(xii) the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name would, or would be likely to, establish that any personal information held by the FOI body concerned relates to the individual,

(xiii) information relating to property of the individual (including the nature of the individual's title to any property), and

(xiv) the views or opinions of another person about the individual,

but does not include—

(I) in a case where the individual holds or held—

(A) office as a director of,

(B) a position as a member of the staff of, or

(C) any other office, or any other position, remunerated from public funds in,

an FOI body, the name of the individual or information relating to the office or position or its functions or the terms upon and subject to which the individual holds or held that office or occupies or occupied that position or anything written or recorded in any form by the individual in the course of and for the purpose of the performance of the functions aforesaid,

(II) in a case where the individual is or was a service provider, the name of the individual or information relating to the service or the terms of the contract or anything written or recorded in any form by the individual in the course of and for the purposes of the provision of the service, or

(III) the views or opinions of the individual in relation to an FOI body, the staff of an FOI body or the business or the performance of the functions of an FOI body;

"political party" means a political party registered in the Register of Political Parties;

"prescribed" means prescribed by the Minister by regulations under this Act;

"prescribed body" means a body or entity declared to be such by the Minister by order pursuant to *section 7*;

"public body" means a body or entity referred to in *section 6(1)*;

"record" includes—

(a) a book or other written or printed material in any form (including in any electronic device or in machine readable form),

(b) a map, plan or drawing,

(c) a disc, tape or other mechanical or electronic device in which data other than visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the disc, tape or other device,

(d) a film, disc, tape or other mechanical or electronic device in which visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the film, disc, tape or other device, and

(e) a copy or part of any thing which falls within *paragraph (a)*, *(b)*, *(c)* or *(d)*,

and a copy, in any form, of a record shall be deemed, for the purposes of this Act, to have been created at the same time as the record;

"request to which *section 38* applies" means an FOI request to which *section 35(3)*, *36(3)* or *37(5)(a)* applies and which, apart from *section 38*, would fall to be granted;

"requester" means a person who makes an FOI request;

"right of access" shall be construed in accordance with *section 11*;

"service provider" means a person who, at the time the request was made, was not an FOI body but was providing a service for an FOI body under a contract for services and contract for services in this definition includes an administrative arrangement between an FOI body and another person;

"week" means a period of 5 consecutive week-days and, in determining such a period, a Saturday or a public holiday (within the meaning of the Organisation of Working Time Act 1997) shall be disregarded.

(2) A power conferred by this Act to make determinations shall be construed as including a power exercisable in the like manner to revoke or amend determinations made under the power.

(3) Nothing in this Act shall be construed as prohibiting or restricting access by an FOI body to a record held by another FOI body.

(4) A reference in *section 9*, *10*, *12*, *13* or *21* in relation to an FOI request or the receipt of such a request or to an application under *section 9(1)*, *10(1)* or *21(2)*, to the head of an FOI body shall be construed as including a reference to the body and to any director or member of the staff thereof, and this Act shall, with any necessary modifications, apply and have effect accordingly.

(5) In this Act a reference to records held by an FOI body includes a reference to records under the control of that body.

Regulations and orders

3. (1) The Minister may—

(a) by regulations provide, subject to this Act, for any matter referred to in this Act as prescribed or to be prescribed, and

(b) in addition to any other power conferred on him or her to make regulations, make regulations generally for the purposes of, and for the purpose of giving full effect to, this Act.

(2) Orders or regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the order or regulations.

(3) Subject to *sections 6* and *7*, every order or regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation or order is passed by either such House within the next 21 days on which that House has sat after the regulation or order is laid before it, the regulation or order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Expenses

4. The expenses incurred by the Minister in the administration of this Act shall be paid out of moneys provided by the Oireachtas and the expenses incurred by any other Minister of the Government in the administration of this Act shall, to such extent as may be sanctioned by the Minister, be paid out of moneys provided by the Oireachtas.

Repeals

5. The enactments specified in *Schedule 4* are repealed to the extent specified in *column (3)* of that Schedule.

PART 2

FOI Bodies

Public bodies

6. (1) Subject to this section, each of the following shall be a public body for the purposes of this Act:

(a) a Department of State;

(b) an entity established by or under any enactment (other than the Companies Acts);

(c) any other entity established (other than under the Companies Acts) or appointed by the Government or a Minister of the Government, including an entity established (other than under the Companies Acts) by a Minister of the Government under any scheme;

(d) a company (within the meaning of the Companies Acts) a majority of the shares in which are held by or on behalf of a Minister of the Government;

(e) a subsidiary (within the meaning of the Companies Acts) of a company to which *paragraph (d)* relates;

(f) an entity (other than a subsidiary to which *paragraph (e)* relates) that is directly or indirectly controlled by an entity to which *paragraph (b)*, *(c)*, *(d)* or *(e)* relates;

(g) a higher education institution in receipt of public funding;

(h) notwithstanding the repeal of the Act of 1997 by *section 5*, and subject to this Act, any entity that was a public body (including bodies or elements of bodies prescribed as such) within the meaning of the Act of 1997 on the enactment of this Act.

(2) (a) An entity specified in *Part 1* of *Schedule 1* ("the parent entity") shall, subject to the provisions of that Part, be a public body for the purposes of this Act.

(b) A subsidiary of a parent entity, or a body directly or indirectly controlled by a parent entity, shall be a public body for the purposes of this Act but only to the extent that the functions of the subsidiary or other body coincide with those functions of the parent entity that are subject to this Act.

(3) An entity specified in *Part 2* of *Schedule 1*, a subsidiary of such an entity or a body directly or indirectly controlled by such an entity shall not be a public body for the purposes of this Act.

(4) A reference in *subsection (1)(a)* to a Department of State shall be construed as including a reference to a body, organisation or group specified in relation to that Department of State in the Schedule to the Ministers and Secretaries Act 1924.

(5) (a) The Minister may, with the consent of such other (if any) Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister of the Government, and having consulted such committee of the Houses of the Oireachtas as he or she considers appropriate, having had

regard to the matters specified in *subsection (6)*, by order declare that *subsection (1)* shall not apply to any particular public body to the extent specified in the order.

(b) The Minister may after consultation with such other Minister of the Government (if any) as appears to him or her to be appropriate having regard to the functions of that other Minister of the Government, having consulted such committee of the Houses of the Oireachtas as he or she considers appropriate and having regard to the matters specified in *subsection (6)*, by order amend or revoke an order under this subsection.

(6) The matters referred to in *subsections (5)(a)* and *(b)* are the need—

(a) to ensure, in the public interest, openness regarding—

(i) the activities of public bodies and their use of public funds,

(ii) information relating to the performance of such bodies' functions, and

(iii) information on services funded by the State,

and in particular (as respects those matters) to ensure accountability and the promotion of the principle of transparency in government and public affairs,

(b) to ensure that public bodies are subject to this Act to the maximum extent feasible, and

(c) to protect the public interest by restricting access to certain records.

(7) Where a dispute arises between the Commissioner and any entity as to whether *subsection (1)* applies or as to the conditions arising by virtue of that subsection, the dispute shall be submitted to the Minister whose determination shall be binding on the Commissioner and the entity.

(8) The power of amendment or revocation under *subsection (5)* is without prejudice to the application of section 22(3) of the Interpretation Act 2005 to other provisions of this Act enabling the making of orders.

(9) (a) The Minister may, after consultation with the Commissioner and such committee of the Houses of the Oireachtas as he or she considers appropriate, and with the consent of such other Minister (if any) as appears to the Minister to have responsibility for that entity, and having regard to the matters referred to in *subsection (6)*, by order declare an entity or a subsidiary of, or a body directly or indirectly controlled by, such an entity—

(i) specified in *Part 1* of *Schedule 1* to be a public body on the basis of different elements of that entity's functions from those specified in that Part, or to be exempted from the provisions of this Act, or

(ii) specified in *Part 2* of *Schedule 1* to be a public body.

(b) An order made under *paragraph (a)* may—

(i) specify the inclusion or exclusion of elements of—

(I) the entity concerned, or

(II) a subsidiary of, or a body directly or indirectly controlled by, the entity concerned,

and

(ii) specify a date, which shall not be a date later than 6 months from the date of such order, on which the entity, subsidiary, body, or element of a body, concerned shall become a public body.

(10) A regulated financial service provider within the meaning of section 2 of the Central Bank Act 1942 shall not be deemed to be a public body by reason of the exercise of supervisory, regulatory or resolution powers over that provider by the Central Bank of Ireland or the Minister for Finance.

(11) Where an order is proposed to be made under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

(12) Where, after the passing of this Act, a company (within the meaning of the Companies Acts), or other body, becomes a public body within the meaning of *section 6(1)* (other than by virtue of an order made under *subsection (5)(b)* or *(9)(a)*), the obligations under this Act shall apply to that company or body, on and from a date that is not later than 6 months after it becomes a public body under this Act other than where the Minister makes an order under *subsection (5)(a)* declaring that *subsection (1)* shall not apply, in whole or in part, to the company or body concerned.

Prescribed bodies

7. (1) Subject to *subsection (2)* and *(3)*, the Minister may, after consultation with the Commissioner, such other Ministers of the Government as he or she considers appropriate and such committee of the Houses of the Oireachtas as he or she considers appropriate, and having regard to the need to ensure the oversight of entities referred to in *subsection (6)* and the need for such entities to adhere to the principles of transparency and accountability in government and public affairs as respects those of their activities as are relevant to *subsection (6)*, by order declare an entity to be a prescribed body for the purposes of this Act.

(2) The specification of an entity in an order under *subsection (1)* may be expressed to be subject to the inclusion or exclusion of elements of that entity.

(3) The Minister may, after consultation with such other Minister of the Government (if any) as appears to him or her to be appropriate, having consulted such committee of the Houses of the Oireachtas as he considers appropriate and having regard to the criteria specified in *subsection (1)*, by order amend or revoke an order under *subsection (1)*.

(4) An entity standing prescribed pursuant to an order for the purposes of *subsection (1)*—

(a) where elements of the entity are included therein, shall be an FOI body only in

respect of those elements referred to in that order, or

(b) where elements of the entity are excluded therefrom, shall not be an FOI body in respect of elements referred to in that order.

(5) Where a dispute arises between the Commissioner and any prescribed body as to whether this Act applies to an element of that body, the dispute shall be submitted to the Minister whose determination shall be binding on the Information Commissioner and the body.

(6) The Minister may prescribe for the purposes of *subsection (1)* any of the following:

(a) an entity, being—

(i) a company established under the Companies Acts in pursuance of powers conferred by or under another enactment, or

(ii) any other entity, whether financed wholly or partly, or directly or indirectly, by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government;

(b) any other entity on which functions in relation to the general public or a class of the general public stand conferred by any enactment (but only in respect of those functions);

(c) a subsidiary (within the meaning of the Companies Acts) of, or any entity directly or indirectly controlled by, an entity referred to in this subsection;

(d) an entity (being a body corporate) that directly or indirectly controls any entity referred to in this subsection.

(7) The power of amendment or revocation under *subsection (3)* is without prejudice to the application of section 22(3) of the Interpretation Act 2005 to other provisions of this Act enabling the making of orders.

(8) Where an order is proposed to be made under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

(9) An order made under *subsection (1)* may specify a date, which shall not be a date later than 6 months from the date of such order, on which the entity concerned shall become a prescribed body.

(10) (a) Where an entity that is a prescribed body—

(i) changes its name,

(ii) merges with, takes over, or is taken over by, another entity, whether or not the merger or takeover results in the creation of a new entity,

(iii) creates a subsidiary entity,

(iv) splits its functions into new entities or delegates functions to another entity, or

(v) re-organises itself such that a function previously performed by the body is performed by another entity,

the entity shall continue to be a prescribed body and any other entity referred to in this paragraph shall become and be a prescribed body in respect of the functions for which the first-mentioned entity was a prescribed body and subject to any conditions prescribed or specified by this Act in that regard.

(b) Reference in this subsection to a body or entity means such a body or entity whether incorporated or unincorporated.

PART 3

Rights in Relation to Records

Chapter 1

General rights in relation to records and decisions

Publication of information about FOI bodies

8. (1) An FOI body shall—

(a) prepare and publish a scheme ("publication scheme"), concerning the publication of information by the body—

(i) in conformity with the model publication scheme (if any) referred to in *subsection (7)*, or

(ii) in accordance with any guidelines on publication schemes published by the Minister under the code referred to in *section 48*,

(b) publish information in accordance with its publication scheme, and

(c) review and update its publication scheme not later than 3 years after its publication and subsequently not later than each third year thereafter.

(2) A publication scheme shall include—

(a) the classes of information that the FOI body has published or intends to publish,

(b) the terms under which it will make such information available and, where the material is not available without charge, the charge,

(c) a general description of its structure and organisation, functions, powers and duties, any services it provides for the public and the procedures by which any such services may be availed of by the public,

(d) a general description of the classes of records held by the body concerned, giving such particulars as are reasonably necessary to facilitate the exercise of the right of access,

(e) the—

(i) rules, procedures, practices, guidelines and interpretations used by the body, and

(ii) any precedents kept by the body,

for the purposes of decisions, determinations or recommendations, under or for the purposes of any enactment or scheme administered by the body with respect to rights, privileges, benefits, obligations, penalties or other sanctions to which members of the public are or may be entitled or subject under the enactment or scheme,

(f) appropriate information in relation to the manner or intended manner of administration of any such enactment or scheme, referred to in *paragraph (e)*,

(g) the names and designations of the members of the staff of the body responsible for carrying out the arrangements referred to in *paragraphs (c)* and *(d)* (unless the head of the body concerned reasonably believes that publication of that information could threaten the physical safety or well-being of the persons),

(h) the address or addresses at which requests under *section 12* or applications under *section 9* or *10* should be given,

(i) appropriate information concerning—

(i) any rights of review or appeal in respect of decisions made by the body (including rights of review and appeal under this Act), and

(ii) the procedure governing the exercise of those rights and any time limits governing such exercise,

and

(j) information in relation to such other matters (if any) as may be prescribed.

(3) A publication scheme shall be published by an FOI body—

(a) not later than 6 months after the commencement of *section 8*, or

(b) where, under *subsection (7)*, the Minister has made or revised guidelines on publication schemes or made or revised model publication schemes such that the FOI body's publication scheme is no longer in conformity with the Minister's guidelines or model publication scheme, not later than 6 months after such making or revision.

(4) An FOI body shall review and, where necessary, revise the material published under a publication scheme under *subsection (1)*—

(a) on at least an annual basis, or

(b) where the Minister has revised a model publication scheme or guidelines under *subsection (7)*, not later than 6 months after the notice of such revision has been published in the *Iris Oifigiúil*.

(5) In preparing, reviewing or revising a publication scheme under this section, an FOI body shall have regard to the public interest—

(a) in allowing public access to information held by the FOI body,

(b) in the publication of reasons for decisions made by the FOI body, and

(c) in publishing information of relevance or interest to the general public in relation to its activities and functions generally.

(6) An FOI body shall maintain and hold a printed version of its publication scheme in its head office for inspection by members of the public during normal office hours, on not less than one day's advance notice.

(7) The Minister may, after consultation with the Commissioner and such other Minister of the Government as he or she considers appropriate—

(a) make or revise model publication schemes for FOI bodies to use as a basis for their own publication schemes, or

(b) make or revise guidelines on publication schemes for FOI bodies,

with such variations as the Minister may think fit for the particular classes and sizes of FOI bodies.

(8) Notice of the making or the revision of a model publication scheme under *subsection (7)* shall be published in *Iris Oifigiúil* as soon as convenient after the making or the revision thereof.

(9) *Subsection (1)* or *(3)* does not apply to any matter by reason of which a record in which it is included would fall to be refused as an exempt record.

(10) The Commissioner may examine and report in his or her annual report on the extent to which, in the opinion of the Commissioner, FOI bodies are in compliance with this section.

(11) (a) Each Minister of the Government shall in accordance with the code of practice made under *section 48* (if any) ensure that appropriate measures are taken by public bodies under his or her aegis, as respects training of staff, organisational arrangements and such other matters as the Minister considers appropriate (including in respect of the code of practice (if any)), for the purpose of facilitating compliance by those bodies with this Act.

(b) Notwithstanding the generality of *section 3(1)(b)*, the Minister may, by regulations made under that subsection, after consultation with the Commissioner and the Director of the National Archives (within the meaning of the National Archives Act 1986), make provision for the management and maintenance of records held by FOI bodies.

(12) In this section "published" includes published by electronic means.

Amendment of records relating to personal information

9. (1) Where personal information in a record held by an FOI body is incomplete, incorrect or misleading, the head of the body shall, on application to him or her in that behalf, in writing or in such other form as may be determined, by the individual to whom the information relates, amend the record—

(a) by altering it so as to make the information complete or correct or not misleading, as may be appropriate,

(b) by adding to the record a statement specifying the respects in which the body is satisfied that the information is incomplete, incorrect or misleading, as may be appropriate, or

(c) by deleting the information from it.

(2) An application under *subsection (1)* shall, in so far as is practicable—

(a) specify the record concerned and the amendment required, and

(b) include appropriate information in support of the application.

(3) The head concerned shall, as soon as may be, but not later than 4 weeks, after the receipt by him or her of an application under *subsection (1)*, decide whether to grant or refuse to grant the application and shall cause notice, in writing or in such other form as may be determined, of his or her decision and, if the decision is to grant it, of the manner of such grant to be given to the person concerned.

(4) (a) If the grant of an application under *subsection (1)* is refused, the head concerned shall—

(i) attach to the record concerned the application or a copy of it or, if that is not practicable, a notation indicating that the application has been made, and

(ii) include in the notification under *subsection (3)* particulars of—

(I) rights of review and appeal under this Act in relation to the decision to refuse to grant the application, and

(II) the procedure governing the exercise of those rights and any time limits governing such exercise.

(b) *Paragraph (a)(i)* does not apply in relation to a case in which the head concerned is of the opinion that the contents of the application concerned are defamatory, or the alterations or additions to the record concerned to which the application relates would be unnecessarily voluminous.

(5) Where a record is amended pursuant to this section, the FOI body concerned shall take all reasonable steps to give notice of the making of the amendment to—

(a) any person to whom access to the record was granted under this Act, and

(b) any other FOI body to whom a copy of the record was given,

during the period of one year ending on the date on which the amendment was effected.

(6) Notwithstanding *subsection (1)*, the Minister may provide by regulations for the making of an application under that subsection—

(a) by the parent or guardian of an individual referred to in that subsection, if the individual belongs to a class specified in the regulations, or

(b) in a case where such an individual is dead, by a member of a class specified in the regulations.

(7) A head to whom a request under this section is made may refuse to grant the request if the request is, in the opinion of the head, frivolous or vexatious, or forms part of a pattern of manifestly unreasonable requests from the same requester or from different requesters who appear to have made the requests acting in concert.

(8) A head shall cause the receipt by him or her of an application under this section to be notified to the applicant in the manner specified in *section 12(2)*.

(9) In the case of a decision to refuse to grant an application under this section the notice under *subsection (3)* in relation to the decision shall comply with *section 13(2)(d)*.

(10) An application under this section shall be expressed to be such an application and shall contain sufficient particulars in relation to the personal information concerned to enable the record to be identified by the taking of reasonable steps.

(11) Notwithstanding *subsection (10)*, where an FOI body receives either—

(a) an application which purports to be an application under this section but which is not in the proper form, or

(b) an application which does not purport to be an application under this section but which applies for the amendment of personal information to which amendment can be effected only by way of an application under this section,

the head shall assist, or offer to assist, the individual in the preparation of an application under this section.

Right of person to information regarding acts of FOI bodies affecting the person

10. (1) The head of an FOI body shall, on application to him or her in that behalf, in writing or in such other form as may be determined, by a person who is affected by an act of the body and has a material interest in a matter affected by the act or to which it relates, not later than 4 weeks after the receipt of the application, cause a statement, in writing or in such other form as may be determined, to be given to the person—

(a) of the reasons for the act, and

(b) of any findings on any material issues of fact made for the purposes of the act.

(2) Nothing in this section shall be construed as requiring—

(a) the giving to a person of information contained in a record which would fall to be refused as an exempt record, or

(b) the disclosure of the existence or non-existence of a record if the non-disclosure of its existence or non-existence is required by this Act.

(3) *Subsection (1)* shall not apply to—

(a) a decision of the Public Appointments Service or other licence holder concerned under section 24(8) of the Public Service Management (Recruitment and Appointments) Act 2004, not to accept a person as qualified for a position

referred to in that section, or

(b) a decision of the Chief Executive of the Public Appointments Service made by virtue of section 7 of the Local Authorities (Officers and Employees) Act 1926, not to recommend a person to a local authority for appointment to an office referred to in that section,

if, in the opinion of the head concerned, the giving of a statement under *subsection (1)* in relation to the decision would be likely to prejudice the effectiveness of the process for selecting a person for appointment to the position or office.

(4) If, pursuant to *subsection (2)* or *(3)*, the head of an FOI body decides not to cause a statement to be given under *subsection (1)* to a person, the head shall, not later than 4 weeks after the receipt of the application concerned under *subsection (1)*, cause notice, in writing or in such other form as may be determined, of the decision to be given to the person.

(5) For the purposes of this section a person has a material interest in a matter affected by an act of an FOI body or to which such an act relates if the consequence or effect of the act may be to confer on, or withhold from, the person a benefit without also conferring it on or withholding it from persons in general or a class of persons which is of significant size having regard to all the circumstances and of which the person is a member.

(6) Notwithstanding *subsection (1)*, the Minister may provide by regulations for the making of an application under that subsection—

(a) by the parent or guardian of a person referred to in that subsection if the person belongs to a class specified in the regulations, or

(b) in a case where such a person is dead, by a member of a class specified in the regulations.

(7) A head to whom a request is made under this section may refuse to grant the request if the request is, in the opinion of the head, frivolous or vexatious, or forms part of a pattern of manifestly unreasonable requests from the same requester or from different requesters who, in the opinion of the head, appear to have made the requests acting in concert.

(8) A head shall cause the receipt by him or her of an application under this section to be notified to the applicant in the manner specified in *section 12(2)*.

(9) In the case of a decision to refuse to grant an application under this section the notice under *subsection (4)* in relation to the decision shall comply with *section 13(2)(d)*.

(10) An application under this section shall be expressed to be such an application.

(11) Notwithstanding *subsection (10)*, where an FOI body receives either—

(a) an application which purports to be an application under this section but which is not in the proper form, or

(b) an application which does not purport to be an application under this section but which applies for the information access to which can be obtained only by way of

an application under this section,

the head shall assist, or offer to assist, the individual in the preparation of an application under this section.

(12) (a) An application under this section shall be made within 12 months after the date on which the person who is affected by the act becomes aware of it.

(b) Notwithstanding *paragraph (a)*, where the particular circumstances warrant it, the head may accept an application outside the time limit specified in that paragraph.

(13) In this section—

"act", in relation to an FOI body, includes a decision (other than a decision under this Act) of the body;

"act of an FOI body" means any act taken on or after the effective date by the FOI body concerned;

"benefit", in relation to a person, includes—

(a) any advantage to the person,

(b) in respect of an act of an FOI body done at the request of the person, any consequence or effect thereof relating to the person, and

(c) the avoidance of a loss, liability, penalty, forfeiture, punishment or other disadvantage affecting the person.

Chapter 2

FOI Requests

Access to records

11. (1) Subject to this Act, every person has a right to and shall, on request therefor, be offered access to any record held by an FOI body and the right so conferred is referred to in this Act as the right of access.

(2) An FOI body shall give reasonable assistance to a person who is seeking a record under this Act—

(a) in relation to the making of the FOI request for access to the record, and

(b) if the person has a disability, so as to facilitate the exercise by the person of his or her rights under this Act.

(3) An FOI body, in performing any function under this Act, shall have regard to—

(a) the need to achieve greater openness in the activities of FOI bodies and to promote adherence by them to the principle of transparency in government and public affairs,

(b) the need to strengthen the accountability and improve the quality of decision-making of FOI bodies, and

(c) the need to inform scrutiny, discussion, comment and review by the public of the activities of FOI bodies and facilitate more effective participation by the public in consultations relating to the role, responsibilities and performance of FOI bodies.

(4) The records referred to in *subsection (1)* are—

(a) records created on or after the effective date, and

(b) (i) records created during such period (if any), or after such time (if any), before that date, and

(ii) records created before such date and relating to such particular matters (if any), and

(iii) records created during such period (if any) and relating to such particular matters (if any),

as may be prescribed, after consultation with such Ministers of the Government as the Minister considers appropriate.

(5) Notwithstanding *subsections (1)* and *(4)* but subject to *subsection (6)*, where—

(a) access to records created before the effective date is necessary or expedient in order to understand records created after such date, or

(b) records created before the effective date relate to personal information about the person seeking access to them,

subsection (1) shall be construed as conferring the right of access in respect of those records.

(6) *Subsection (4)* shall not be construed as applying, in relation to an individual who is a member of the staff of an FOI body, the right of access to a record held by an FOI body that—

(a) is a personnel record, that is to say, a record relating wholly or mainly to one or more of the following, that is to say, the competence or ability of the individual in his or her capacity as a member of the staff of an FOI body or his or her employment or employment history or an evaluation of the performance of his or her functions generally or a particular such function as such member,

(b) was created more than 3 years before the effective date by the FOI body concerned, and

(c) is not being used or proposed to be used in a manner or for a purpose that affects, or will or may affect, adversely the interests of the person.

(7) Nothing in this section shall be construed as applying the right of access to an exempt record—

(a) where the exemption is mandatory, or

(b) where the exemption operates by virtue of the exercise of a discretion that requires the weighing of the public interest, if the factors in favour of refusal outweigh those in favour of release.

(8) Nothing in this Act shall be construed as prohibiting or restricting an FOI body from publishing or giving access to a record (including an exempt record) otherwise than under this Act where such publication or giving of access is not prohibited by law.

(9) A record in the possession of a service provider shall, if and in so far as it relates to the service, be deemed for the purposes of this Act to be held by the FOI body, and there shall be deemed to be included in the contract for the service a provision that the service provider shall, if so requested by the FOI body for the purposes of this Act, give the record to the FOI body for retention by it for such period as is reasonable in the particular circumstances.

(10) If a person who is or was providing a service for a public body under a contract for the service is a public body specified in Part 2 of Schedule 1, but immediately prior to the enactment of this Act was not a public body to which the Act of 1997 applied, *subsection (9)* shall not apply to records held by that public body in respect of the contract for service it provides for the other public body until 6 months after the date of such enactment.

(11) Where an FOI request would fall to be granted by virtue of *subsection (9)* but for the fact that it relates to a record that contains, with the matter relating to the service concerned, other matter, the head of the FOI body concerned shall, if it is practicable to do so, prepare a copy, in such form as he or she considers appropriate of so much of the record as does not consist of the other matter aforesaid and the request shall be granted by offering the requester access to the copy.

Requests for access to records

12. (1) A person who wishes to exercise the right of access shall make a request, in writing or in such other form as may be determined, addressed to the head of the FOI body concerned for access to the record concerned—

(a) stating that the request is made under this Act,

(b) containing sufficient particulars in relation to the information concerned to enable the record to be identified by the taking of reasonable steps, and

(c) if the person requires such access to be given in a particular form or manner (being a form or manner referred to in *section 17*), specifying the form or manner of access.

(2) The head shall cause the receipt by him or her of a request under *subsection (1)* to be notified, in writing or in such other form as may be determined, to the requester concerned as soon as may be but not later than 2 weeks after such receipt, and the notification shall include a summary of the provisions of *section 19* and particulars of the rights of review under this Act, the procedure governing the exercise of those rights, and the time limits governing such exercise, in a case to which that section applies.

(3) Where a request under this section is received by the head of an FOI body ("head") and the record or records concerned are not held by the body ("the first-mentioned body") but, to the knowledge of the head, are held by one or more other FOI bodies,

the head shall, as soon as may be, but not more than 2 weeks, after the receipt of the request, cause a copy of the request to be given to the head of the other body or, as the case may be, to the head of that one of the other bodies—

(a) whose functions are, in the opinion of the head, most closely related to the subject matter of the records concerned, or

(b) that, in the opinion of the head, is otherwise most appropriate,

and inform the requester concerned, by notice in writing or in such other form as may be determined, of his or her having done so and thereupon—

(i) the head to whom the copy aforesaid is furnished shall be deemed, for the purposes of this Act, to have received the request under this section and to have received it at the time of the receipt by him or her of the copy, and

(ii) the head shall be deemed, for the purposes of this Act, not to have received the request.

(4) Where a request under this section relating to more than one record is received by the head of an FOI body ("the first-mentioned body") and one or more than one (but not all) of the records concerned is or are held by the body, the head shall inform the requester concerned, by notice in writing or in such other form as may be determined, of the names of any other FOI body that, to his or her knowledge, holds any of the records.

(5) A person shall be deemed to have the knowledge referred to in *subsections (3)* and *(4)* if, by the taking of reasonable steps, he or she could obtain that knowledge.

(6) Where—

(a) a person makes a request for information, or a request for access to a record, to an FOI body or to a head or a director, or member of the staff, of an FOI body, other than under and in accordance with this Act, and

(b) it is not or may not be possible to give the information, or make available the record, other than pursuant to an FOI request in relation to it under and in accordance with this section,

the head shall, if appropriate, cause the person to be informed of the right of access and shall assist, or offer to assist, the person in the preparation of such a request.

(7) Where a person makes a request under this section, the FOI body may, having examined the request, advise the requester in writing or such other form as may be determined whether the records concerned may be accessed under—

(a) the European Communities (Re-use of Public Sector Information) Regulations 2005 (S.I. No. 279 of 2005), or

(b) the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007),

instead of under this Act.

(8) A person who makes a request under *subsection (1)* may, at any time before the

making of a decision under *section 13(1)* in relation to the request, by notice in writing or in such other form as may be determined, given to the head concerned, withdraw the request and the head concerned shall cause notice of the withdrawal to be given to any other person to whom, in the opinion of the head, it should be given.

Decisions on FOI requests and notification of decisions

13. (1) Subject to this Act, a head shall, as soon as may be, but not later than 4 weeks, after the receipt of an FOI request—

(a) decide whether to grant or refuse to grant the request or to grant it in part,

(b) if he or she decides to grant the request, whether wholly or in part, determine the form and manner in which the right of access will be exercised, and

(c) cause notice, in writing or in such other form as may be determined, of the decision and determination to be given to the requester concerned.

(2) A notice under *subsection (1)* shall specify—

(a) the decision under that subsection and the day on which it was made,

(b) unless the head concerned reasonably believes that their disclosure could prejudice the safety or well-being of the person concerned, the name and designation of the person in the FOI body concerned who is dealing with the request,

(c) if the request aforesaid is granted, whether wholly or in part—

(i) the day on which, and the form and manner in which, access to the record concerned will be offered to the requester concerned and the period during which the record will be kept available for the purpose of such access, and

(ii) the amount of any fee under *section 27* payable by the requester in respect of the grant of the request,

(d) if the request aforesaid is refused, whether wholly or in part—

(i) the reasons for the refusal, and

(ii) unless the refusal is pursuant to *section 28(5)*, *31(4)*, *32(2)*, *33(4)*, *35(4)*, *36(4)* or *37(6)*, any provision of this Act pursuant to which the request is refused and the findings on any material issues relevant to the decision and particulars of any matter relating to the public interest taken into consideration for the purposes of the decision,

(e) if the giving of access to the record is deferred under *section 16*, the reasons for the deferral and the period of the deferral, and

(f) particulars of rights of review and appeal under this Act in relation to the decision under *subsection (1)* and any other decision referred to in the notice, the procedure governing the exercise of those rights and the time limits governing such exercise.

(3) Subject to this Act, where a request is granted under *subsection (1)*—

(a) if—

(i) a fee is not charged under *section 27* in respect of the matter,

(ii) a deposit under that section has been paid and a fee under that section is charged and the amount of the deposit equals or exceeds the amount of the fee, or

(iii) such a deposit has been paid but such a fee is not charged,

access to the record concerned shall be offered to the requester concerned forthwith and the record shall be kept available for the purpose of such access for a period of 4 weeks thereafter, and

(b) if a fee is so charged, access to the record concerned shall be offered to the requester concerned as soon as may be, but not more than one week, after the day on which the fee is received by the FOI body concerned, and the record shall be kept available for the purpose of such access until—

(i) the expiration of the period of 4 weeks from such receipt, or

(ii) the expiration of the period of 8 weeks from the receipt by the requester concerned of the notice under *subsection (1)* concerned,

whichever is the earlier.

(4) Subject to this Act, in deciding whether to grant or refuse to grant an FOI request—

(a) any reason that the requester gives for the request, and

(b) any belief or opinion of the head as to what are the reasons of the requester for the request,

shall be disregarded.

(5) This section shall not be construed as requiring the inclusion in a notice under *subsection (1)* of matter that, if it were included in a record, would cause the record to be an exempt record.

(6) References in this section to the grant of an FOI request include references to such a grant pursuant to *section 18*.

Extension of time for consideration of FOI requests

14. (1) The head may, as respects an FOI request received by him or her (the "specified request"), extend the period specified in *section 13(1)* for consideration of the request by such period as he or she considers necessary but not exceeding a period of 4 weeks if, in the opinion of the head—

(a) the request relates to such number of records, or

(b) the number of other FOI requests relating either to the record or records to which the specified request relates or to information corresponding to that to which the specified request relates or to both that have been made to the FOI body concerned before the specified request was made to it and in relation to which a

decision under *section 13* has not been made is such,

that compliance with that subsection within the period specified therein is not reasonably possible.

(2) Where a period is extended under this section, the head concerned shall cause notice in writing or in such other form as may be determined, to be given to the requester concerned, before the expiration of the period, of the extension and the period thereof and reasons therefor.

(3) The reference in *section 13(1)* to 4 weeks shall be construed in accordance with any extension under this section of that period.

Refusal on administrative grounds to grant FOI requests

15. (1) A head to whom an FOI request is made may refuse to grant the request where—

(a) the record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken,

(b) the FOI request does not comply with *section 12(1)(b)*,

(c) in the opinion of the head, granting the request would, by reason of the number or nature of the records concerned or the nature of the information concerned, require the retrieval and examination of such number of records or an examination of such kind of the records concerned as to cause a substantial and unreasonable interference with or disruption of work (including disruption of work in a particular functional area) of the FOI body concerned,

(d) the information is already in the public domain,

(e) publication of the record is required by law and is intended to be effected not later than 12 weeks after the receipt of the request by the head,

(f) the FOI body intends to publish the record and such publication is intended to be effected not later than 6 weeks after the receipt of the request by the head,

(g) the request is, in the opinion of the head, frivolous or vexatious or forms part of a pattern of manifestly unreasonable requests from the same requester or from different requesters who, in the opinion of the head, appear to have made the requests acting in concert,

(h) a fee or deposit payable under *section 27* in respect of the request concerned or in respect of a previous request by the same requester has not been paid, or

(i) the request relates to records already released, either to the same or a previous requester where—

(i) the records are available to the requester concerned, or

(ii) it appears to the head concerned that that requester is acting in concert with a previous requester.

(2) Subject to *subsection (3)*, a head may refuse to grant—

(a) a record that is available for inspection by members of the public whether upon payment or free of charge, or

(b) a record a copy of which is available for purchase or removal free of charge by members of the public,

whether by virtue of an enactment (other than this Act) or otherwise.

(3) A record shall not be within *subsection (2)* by reason only of the fact that it contains information constituting personal data to which the Data Protection Acts 1988 and 2003 apply.

(4) A head shall not refuse, pursuant to *paragraph (b)* or *(c)* of *subsection (1)*, to grant an FOI request unless he or she has assisted, or offered to assist, the requester concerned in an endeavour so as to amend the request for re-submission such that it no longer falls within those paragraphs.

Deferral of access to records

16. (1) Where an FOI request is made, and—

(a) the record concerned was prepared solely for the information of either or both of the Houses of the Oireachtas or a committee of either or both of such Houses and copies of the record are intended to be laid before either or both of such Houses or given to such a committee or otherwise published to members of either or both of such Houses or such a committee on a day falling within a reasonable period after the receipt by the head concerned of the request (the "specified day"), or

(b) information contained in the record concerned falls within *paragraph (b)*, *(d)* or *(e)* of *section 29(2)* and the giving of access to the record on or before a particular day (the "specified day") would, in the opinion of the head concerned, be contrary to the public interest, or

(c) the record concerned is held by a Department of State and the Minister of the Government in whom functions in relation to that Department are vested considers that the record or part thereof or any matter to which it relates is of such interest to the public generally that he or she intends to inform either or both of the Houses of the Oireachtas of the contents of the record or part or of the matter or otherwise to publish the contents of the record or part or information relating to the matter on a day not later than one week after the appropriate time specified in *section 13(3)* (the "specified day"),

the head concerned may defer the offering of access to the record to the requester concerned until the day immediately after the specified day.

(2) *Section 13(3)* shall be construed and have effect in relation to a case in which the offering of access to a record is deferred under this section as if—

(a) *paragraph (a)* thereof required access to the record to be offered to the requester concerned forthwith upon the expiration of the period of the deferral and the record to be kept available for the purpose of such access for a period of 4 weeks thereafter, and

(b) *paragraph (b)* thereof required access to the record to be offered to the requester as soon as may be, but not more than one week, after—

(i) the expiration of the period of the deferral, or

(ii) the day on which the fee under *section 27* concerned is received by the FOI body concerned,

whichever is the later and the record to be kept available for the purpose of such access until—

(I) the expiration of the period of 4 weeks from such receipt, or

(II) the expiration of the period of 4 weeks from the expiration of the period of the deferral,

whichever is the later.

Manner of access to records

17. (1) A head may give access under this Act to a record by providing the requester—

(a) with a copy of the record,

(b) with a transcript of the information concerned,

(c) where available in such form and subject to *subsection (2)*, with a searchable electronic version of the record,

(d) with a reasonable opportunity to inspect the record,

(e) in case the record is of sound or visual images, with a reasonable opportunity to hear or view the record,

(f) in case the information is in shorthand or other code, with the information unencoded in written form or such other form as may be determined,

(g) with the information in such other form or manner as may be determined, or

(h) with the information in a combination of any 2 or more of the foregoing.

(2) Where a head decides to grant an FOI request and the request is for access in a particular form or manner to a record, such access shall be given in that form or manner unless the head concerned is satisfied—

(a) that such access in another form or manner specified in or determined under *subsection (1)* would be significantly more efficient, or

(b) that the giving of access in the form or manner requested would—

(i) be physically detrimental to the record,

(ii) involve an infringement of copyright (other than copyright owned by the State, the Government or the FOI body concerned),

(iii) conflict with a legal duty or obligation of an FOI body, or

(iv) prejudice, impair or damage any interest protected by *Part 4* or *5*.

(3) Where a head decides to grant an FOI request but not to give access to the record concerned in the form or manner specified in the request, he or she shall give such access—

(a) if the case is one to which *paragraph (a)* of *subsection (2)* applies, in the appropriate form or manner having regard to that paragraph, and

(b) if the case is one to which *paragraph (b)* of that subsection applies, in such other form or manner specified in or determined under *subsection (1)* as may be agreed by the head and the requester or, if those persons are unable to agree upon such a form, in such form specified in *subsection (1)* as the head considers appropriate.

(4) Where an FOI request relates to data contained in more than one record held on an electronic device by the FOI body concerned—

(a) subject to *paragraph (b)*, the FOI body shall take reasonable steps to search for and extract the records to which the request relates, being steps that involve the use of any facility for electronic search or extraction that existed on the date of the request and was used by the FOI body in the ordinary course, and

(b) if the reasonable steps referred to in *paragraph (a)* result in the creation of a new record, that record shall, for the purposes of considering whether or not such new record should be disclosed in response to the request, be deemed to have been created on the date of receipt of the FOI request.

Access to parts of records

18. (1) Where an FOI request would fall to be granted but for the fact that it relates to a record that is an exempt record, by reason of the inclusion in it, with other matter, of particular matter, the head of the FOI body concerned, shall, if it is practicable to do so, prepare a copy, in such form as he or she considers appropriate, of so much of the record as does not consist of the particular matter aforesaid and the request shall be granted by offering the requester access to the copy.

(2) *Subsection (1)* shall not apply in relation to a record if the copy provided for thereby would be misleading.

(3) Where a requester is offered access to a copy of part of a record under this section, then (unless the record is one to which *section 28(5)*, *31(4)*, *32(2)*, *33(4)*, *35(4)*, *36(4)* or *37(6)* applies), the notice under *section 13(1)* concerned shall specify that such access is offered pursuant to this section and that the copy does not purport to be a copy of the complete record to which the FOI request relates and shall also specify the nature of the matter contained in the record by virtue of which *subsection (1)* applies to the record.

Decisions deemed to have been made in certain cases

19. (1) Where notice of a decision under *section 9* or *13* is not given to the requester concerned or to the person who made the application concerned under *section 9* before the expiration of the period specified for that purpose in *section 9* or *13*, as the case may be, a decision refusing to grant the FOI request or the application under

section 9 shall be deemed for the purposes of this Act to have been made upon such expiration and to have been made by a person to whom the relevant functions stood delegated under *section 20*.

(2) Where notice of a decision under *section 21* is not given to the person who made the application concerned under that section before the expiration of the period specified in *subsection (4)* thereof, a decision affirming the decision to which the application relates shall be deemed for the purposes of this Act to have been made upon such expiration.

(3) Where a statement under *subsection (1)* of *section 10*, or notice of a decision under *subsection (4)* of that section, is not given to the person who made the application under the said *subsection (1)* concerned before the expiration of the period specified for that purpose in the said *subsection (1)* or *(4)*, as the case may be, a decision refusing to grant the application shall be deemed for the purposes of this Act to have been made upon such expiration and to have been made by a person to whom the relevant functions stood delegated under *section 20*.

Delegation of certain functions of heads

20. (1) A head may delegate in writing to a member of the staff of the FOI body concerned any of the functions of the head under this Act (other than this section and *section 34*).

(2) A delegation under *subsection (1)* ("delegation") may—

(a) relate to functions generally or specified functions or be in respect of records generally or specified classes of records or specified records, and

(b) be to a specified member or specified members of the staff of the FOI body concerned or to such members who are of a specified rank or grade or of a rank or grade not lower than a specified rank or grade,

and may delegate different functions or classes of function to different such members or classes of members.

(3) A delegation may be revoked in whole or in part or amended in writing by the head for the time being of the FOI body concerned.

(4) A delegation shall operate, so long as it continues in force, to confer on and vest in the person concerned the function or functions delegated by the delegation.

(5) References in this Act to a head shall be construed, where appropriate having regard to the context and any delegation under this section, as including references to any person to whom functions stand delegated by the delegation.

Chapter 3

Internal Review

Review by heads of decisions under *Chapters 1* and *2*

21. (1) This section applies to a decision made pursuant to this Act by a person to whom the

function concerned stood delegated at the time of the making of the decision, being—

(a) a decision to refuse to grant an FOI request, whether wholly or in part, (other than a request to which *section 38* applies) (a "request") in relation to the record concerned,

(b) a decision under *section 9* to refuse to amend a record,

(c) a decision under *section 10* in relation to the contents of a statement furnished under *subsection (1)* of that section or to refuse an application under that subsection,

(d) a decision under *section 16* to defer the offering of access to a record falling within *paragraph (a)* of *subsection (1)* of that section,

(e) a decision under *section 17* to grant a request by giving access to the record concerned in a form other than that specified in the request,

(f) a decision under *section 18* to grant an FOI request by offering the requester concerned access to a copy of part only of the record concerned, or

(g) a decision to charge a fee or deposit, or a fee or deposit of a particular amount, under *section 27*.

(2) Subject to this section, the head of the FOI body concerned, on application to him or her in that behalf, in writing or in such other form as may be determined, by a relevant person—

(a) may review a decision to which this section applies, and

(b) following the review, may, as he or she considers appropriate—

(i) affirm or vary the decision, or

(ii) annul the decision and, if appropriate, make such decision in relation to the matter as he or she considers proper,

in accordance with this Act.

(3) A person to whom a function under this section stands delegated under *section 20* shall not perform that function in relation to a decision to which this section applies that was made by a member of the staff of the FOI body concerned whose rank is the same as or higher than that of the person aforesaid.

(4) A decision under *subsection (2)* shall be made, and the head concerned shall cause notice thereof, in writing or in such other form as may be determined, to be given to the relevant person and any other person whom he or she considers should be notified thereof, not later than 3 weeks after the receipt by the head of the application for the review under that subsection concerned.

(5) A notice under *subsection (4)* shall specify—

(a) the day on which the decision concerned under that subsection was made,

(b) if the decision is to grant, in whole or in part, the FOI request concerned, the information referred to in *section 13(2)(c)*,

(c) if the decision is to refuse to grant, wholly or in part, the request aforesaid, the information specified in *subparagraph (i)* of *paragraph (d)* of *section 13(2)* and, if the refusal is not pursuant to *section 15(1)(c)*, *28(5)*, *31(4)*, *32(2)*, *33(4)*, *35(4)*, *36(4)* or *37(6)*, the information specified in *subparagraph (ii)* of that paragraph,

(d) if the decision is to defer the giving of access to the record concerned, the reasons for the deferral and the period of the deferral,

(e) if the decision is a decision referred to in *paragraph (b)*, *(c)*, *(e)*, *(f)* or *(g)* of *subsection (1)*, the reasons for the decision, and

(f) particulars of the rights of review and appeal under this Act in relation to the decision, the procedure governing the exercise of those rights and the time limits governing such exercise.

(6) This section shall not be construed as requiring the inclusion in a notice under *subsection (4)* of matter that, if it were included in a record, would cause the record to be an exempt record.

(7) An application for a review under *subsection (2)* shall be made not later than 4 weeks after the notification under this Act of the decision concerned to the relevant person concerned or, in a case in which the head concerned is of the opinion that there are reasonable grounds for extending that period, the expiration of such longer period as he or she may determine.

(8) The relevant person concerned may, at any time before the making of a decision under *subsection (2)* following the review concerned, by notice in writing or in such other form as may be determined, given to the head concerned, withdraw the application concerned under that subsection and the head concerned shall cause a copy of any notice given to him or her under this subsection to be given to any other person to whom, in the opinion of the head, it should be given.

(9) *Subsection (3)* of *section 13* shall apply in relation to a case where a decision under *subsection (2)* is to grant an FOI request or to annul or vary a deferral under *section 16* with the modification that the reference in the said *subsection (3)* to the grant of a request under *subsection (1)* of *section 13* shall be construed as a reference to the making of the decision under *subsection (2)*.

(10) Subject to this Act, a decision under *subsection (2)* shall—

(a) insofar as it is inconsistent with the decision to which this section applies, have effect in lieu thereof, and

(b) be binding on the parties concerned.

(11) In this section "relevant person", in relation to a decision to which this section applies, means—

(a) the requester concerned, or

(b) if the decision is made under *section 9* or *10*, the person who made the application concerned.

Chapter 4

Review by Information Commissioner

Review by Commissioner of decisions

22. (1) This section applies to—

(a) a decision to refuse to grant an FOI request on the ground that, by virtue of *section 42*, this Act does not apply to the record concerned,

(b) a decision under *section 21*, other than a decision referred to in *paragraph (d)*,

(c) a decision specified in any of *paragraph (a)* to *(f)* of *section 21(1)*,

(d) a decision under *section 21*, or a decision under *section 27*, that a fee or deposit exceeding €10 or such other amount (if any) as may stand prescribed for the time being should be charged under *section 27*,

(e) a decision under *section 14* to extend the time for the consideration of an FOI request,

(f) a decision under *section 16* to defer the giving of access to a record falling within *paragraph (b)* or *(c)* of *subsection (1)* of that section,

(g) a decision on a request to which *section 38* applies,

but excluding—

(i) a decision aforesaid made by the Commissioner in respect of a record held by the Commissioner or (in a case where the same person holds the office of Ombudsman and the office of Commissioner) made by the Ombudsman in respect of a record held by the Ombudsman, and

(ii) a decision referred to in *paragraph (c)*, and a decision under *section 27* referred to in *paragraph (d)*, made by a person to whom the function concerned stood delegated under *section 20* at the time of the making of the decision.

(2) Subject to this Act, the Commissioner may, on application to him or her in that behalf, in writing or in such other form as may be determined, by a relevant person—

(a) review a decision to which this section applies, and

(b) following the review, may, as he or she considers appropriate—

(i) affirm or vary the decision, or

(ii) annul the decision and, if appropriate, make such decision in relation to the matter concerned as he or she considers proper,

in accordance with this Act.

(3) A decision under *subsection (2)* shall be made as soon as may be and, insofar as

practicable, not later than 4 months after the receipt by the Commissioner of the application for the review concerned.

(4) An application under *subsection (2)* shall be made—

(a) if it relates to a decision specified in *paragraph (e)* or *(g)* of *subsection (1)*, not later than 2 weeks after the notification of the decision to the relevant person concerned or, in a case in which the Commissioner is of the opinion that there are reasonable grounds for extending that period, the expiration of an additional period of such length as he or she may determine, and

(b) if it relates to any other decision specified in that subsection, not later than 6 months after the notification of the decision to the relevant person concerned or, in a case in which the Commissioner is of the opinion that there are reasonable grounds for extending that period, the expiration of such longer period as he or she may determine.

(5) A person who makes an application under *subsection (2)* may, by notice given in writing, orally or by electronic means, to the Commissioner, at any time before a notice under *subsection (10)* in relation to the application is given to the person, withdraw the application, and the Commissioner shall cause a copy of any notice given to him or her under this subsection to be given to the relevant person, or the head, concerned, as may be appropriate, and any other person to whom, in the opinion of the Commissioner, it should be given, or (in the case of an oral withdrawal) cause such appropriate persons to be notified of the withdrawal.

(6) (a) As soon as may be after the receipt by the Commissioner of an application under *subsection (2)*, the Commissioner shall cause a copy of the application to be given to the head concerned, and, as may be appropriate, to the relevant person concerned and, if the Commissioner proposes to review the decision concerned, he or she shall cause the head and the relevant person and any other person who, in the opinion of the Commissioner, should be notified of the proposal to be so notified and, thereupon, the head shall give to the Commissioner particulars, in writing or in such other form as may be determined, of any persons whom he or she has or, in the case of a refusal to grant a request to which *section 38* applies, would, if he or she had intended to grant the FOI request concerned, have notified of the request.

(b) The Commissioner may, at his or her discretion, remove any personal or confidential information which was not intended for circulation to the FOI body concerned from the application under this section when causing a copy of the application to be forwarded to the FOI body.

(7) (a) Where an application under *subsection (2)* is made, the Commissioner may at any time endeavour to effect a settlement between the parties concerned of the matter concerned and may for that purpose, notwithstanding *subsection (3)*, suspend, for such period as may be agreed with the parties concerned and, if appropriate, discontinue, the review concerned.

(b) In determining whether to suspend a review under this section, the Commissioner shall act in accordance with his or her own discretion.

(8) In relation to a proposed review under this section, the head, and the relevant person concerned and any other person who is notified under *subsection (6)* of the review may make submissions (as the Commissioner may determine, in writing or orally or in such other form as may be determined) to the Commissioner in relation to any matter relevant to the review and the Commissioner shall take any such submissions into account for the purposes of the review.

(9) (a) The Commissioner may refuse to accept an application under *subsection (2)* or may discontinue a review under this section if he or she is or becomes of the opinion that—

(i) the application aforesaid or the application to which the review relates (the "application") is frivolous or vexatious,

(ii) the application does not relate to a decision specified in *subsection (1)*,

(iii) the matter to which the application relates is, has been or will be, the subject of another review under this section,

(iv) the applicant has failed to provide the Commissioner with sufficient information or particulars, or otherwise has failed to co-operate with the Commissioner in the conduct of a review,

(v) there is no longer any issue requiring adjudication, as access to the records in question has been granted by the FOI body in the course of the review,

(vi) the application forms part of a pattern of manifestly unreasonable requests from the same requester or from different requesters who, in the opinion of the Commissioner, appear to have made the requests acting in concert, or

(vii) accepting the application would, by reason of the number or nature of the records concerned or the nature of the information concerned, require the examination of such number of records or an examination of such kind of the records concerned as to cause a substantial and unreasonable interference with or disruption of work of his or her Office.

(b) In determining whether to refuse to accept an application under *subsection (2)* or to discontinue a review under this section, the Commissioner shall, subject to this Act, act in accordance with his or her own discretion.

(10) Notice, in writing or in such other form as may be determined, of a decision under *subsection (2)(b)*, or of a refusal or discontinuation under *subsection (9)*, and the reasons therefor, shall be given by the Commissioner to—

(a) the head concerned,

(b) the relevant person concerned, and

(c) any other person to whom, in the opinion of the Commissioner, such notice should be given.

(11) (a) The notice referred to in *subsection (10)* shall be given as soon as may be after the decision, refusal or discontinuation concerned and, if it relates to a decision under *subsection (2)*, in so far as practicable, within the period specified in

subsection (3).

(b) The report of the Commissioner for any year under *section 47* shall specify the number of cases (if any) in that year in which a notice referred to in *subsection (10)* in relation to a decision under *subsection (2)(b)* was not given to a person specified in *subsection (10)* within the appropriate period specified in *paragraph (a)*.

(12) In a review under this section—

(a) a decision to grant a request to which *section 38* applies shall be presumed to have been justified unless the person concerned to whom *subsection (2)* of that section applies shows to the satisfaction of the Commissioner that the decision was not justified, and

(b) a decision to refuse to grant an FOI request shall be presumed not to have been justified unless the head concerned shows to the satisfaction of the Commissioner that the decision was justified.

(13) A decision of the Commissioner following a review under this section shall, where appropriate, specify the period within which effect shall be given to the decision and, in fixing such a period, the Commissioner shall have regard to the desirability, subject to *section 26*, of giving effect to such a decision as soon as may be after compliance in relation thereto with *subsection (11)*.

(14) Subject to this Act, a decision under *subsection (2)* shall—

(a) insofar as it is inconsistent with the decision to which this section applies, have effect in lieu thereof, and

(b) be binding on the parties concerned.

(15) Nothing in this Act shall prevent the Commissioner in a review under this section from taking into account that the record concerned—

(a) has lost its confidentiality,

(b) is no longer commercially sensitive, or

(c) is personal information relating to an individual other than the requester.

(16) In this section "relevant person", in relation to a decision specified in *subsection (1)*, means—

(a) the requester concerned and, if the decision is in respect of a request to which *section 38* relates, a person to whom *subsection (2)* of that section applies, or

(b) if the decision is under *section 9* or *10*, the person who made the application concerned under that section.

Requests for further information by Commissioner

23. (1) Where—

(a) an application for the review by the Commissioner of—

(i) a decision to refuse to grant an FOI request, or

(ii) a decision under *section 21* in relation to a decision referred to in *subparagraph (i)*,

is made under *section 22*, and

(b) the Commissioner considers that the statement of the reasons for the decision referred to in *paragraph (a)(i)* in the notice under *subsection (1)* of *section 13* or of the findings or particulars referred to in *subsection (2)(d)(ii)* of that section in relation to the matter is not adequate,

the Commissioner shall direct the head concerned to furnish to the requester concerned and the Commissioner a statement, in writing or such other form as may be determined, containing any further information in relation to those matters that is in the power or control of the head.

(2) A head shall comply with a direction under this section as soon as may be, but not later than 3 weeks, after its receipt.

Chapter 5

Appeal to High Court

Appeal to High Court, etc.

24. (1) A party to an application under *section 22* or any other person affected by the decision of the Commissioner following a review under that section may appeal to the High Court—

(a) on a point of law from the decision, or

(b) where the party or person concerned contends that the release of a record concerned would contravene a requirement imposed by European Union law, on a finding of fact set out or inherent in the decision.

(2) The requester concerned or any other person affected by—

(a) the issue of a certificate under *section 34*,

(b) a decision, pursuant to *section 13*, to refuse to grant an FOI request in relation to a record the subject of such a certificate, or

(c) a decision, pursuant to *section 21*, to refuse to grant, or to uphold a decision to refuse to grant, such a request,

may appeal to the High Court on a point of law against such issue or from such decision.

(3) A person may appeal to the High Court from—

(a) a decision under *section 21*, or

(b) a decision specified in any of *paragraphs (a)* to *(g)* of *subsection (1)* of that section (other than such a decision made by a person to whom the function stood

delegated under *section 20* at the time of the making of the decision),

made by the Commissioner in respect of a record held by the Office of the Commissioner or (in a case where the same person holds the office of Ombudsman and the office of Commissioner) made by the Ombudsman in respect of a record held by the Office of the Ombudsman.

(4) (a) Subject to *paragraph (b)*, an appeal under *subsection (1)*, *(2)* or *(3)* shall be initiated not later than 4 weeks after notice of the decision concerned was given to the person bringing the appeal.

(b) Where the Commissioner has decided that access should be granted to some records (including parts of records) but not all records requested—

(i) the requester shall have 8 weeks after the date of the notification of the decision concerned to initiate an appeal to the High Court under this section, and

(ii) the public body concerned shall grant access to those records that it intends to release after expiration of 4 weeks from the decision of the Commissioner.

(5) A decision of the High Court following an appeal under *subsection (1)*, *(2)* or *(3)* shall, where appropriate, specify the period within which effect shall be given to the decision.

(6) The Commissioner may refer any question of law arising in a review under *section 22* to the High Court for determination, and the Commissioner may postpone the making of a decision following the review until such time as he or she considers convenient after the determination of the High Court.

(7) (a) Where an appeal under *subsection (1)*, *(2)* or *(3)* by a person (other than a head) is dismissed by the High Court, that Court may, if it considers that the point of law concerned was of exceptional public importance, order that some or all of the costs of the person in relation to the appeal be paid by the FOI body concerned.

(b) Where a reference under *subsection (6)* is heard by the High Court, that Court may order that some or all of the costs of a person (other than a head) in relation to such reference be paid by the FOI body concerned.

(8) Where an appeal to the Supreme Court is taken from a decision of the High Court under this section, that Court may order that some or all of the costs of a person (other than a head) in relation to an appeal to that Court be paid by the FOI body concerned, if it considers that a point of law of exceptional public importance was involved in the appeal and, but for this subsection, that Court would not so order.

Chapter 6

Miscellaneous

Precautions by High Court and Commissioner against disclosure of certain information

25. (1) In proceedings in the High Court under or in relation to this Act, that Court shall take all reasonable precautions to prevent the disclosure to the public or, if appropriate, to

a party (other than a head) to the proceedings of—

(a) information contained in an exempt record, or

(b) information as to whether a record exists or does not exist in a case where the head concerned is required by this Act not to disclose whether the record exists or does not exist.

(2) Without prejudice to the generality of *subsection (1)*, precautions under that subsection may include—

(a) hearing the whole or part of any such proceedings as aforesaid otherwise than in public,

(b) prohibiting the publication of such information in relation to any such proceedings as it may determine, including information in relation to the parties to the proceedings and the contents of orders made by the High Court in the proceedings, and

(c) examining a record or a copy of a record without giving access or information in relation thereto to a party (other than a head) to the proceedings.

(3) In the performance of his or her functions under this Act, the Commissioner shall take all reasonable precautions (including conducting the whole or part of a review under *section 22* or an investigation under *section 44* otherwise than in public) to prevent the disclosure to the public or, in the case of such a review, to a party (other than a head) to the proceedings concerned of information specified in *paragraph (a)* or *(b)* of *subsection (1)* or matter that, if it were included in a record, would cause the record to be an exempt record.

Stay on certain decisions

26. (1) This section applies to—

(a) a decision to grant a request to which *section 38* applies, and

(b) a decision under *section 22*.

(2) Effect shall not be given to a decision to which this section applies before, whichever is the later of—

(a) the expiration of the time for—

(i) making an application for a review to the Commissioner under *section 22*, or

(ii) bringing an appeal to the High Court from the decision,

as may be appropriate, or

(b) if such an application or appeal is made or brought, the final determination or withdrawal thereof.

Fees and charges

27. (1) Such amount as may be appropriate having regard to the provisions of this section

shall be charged by the FOI body concerned under this subsection and paid by the requester concerned to the body in respect of the grant of an FOI request. The amount of a charge under this subsection shall be equal to the estimated cost of the search for and retrieval and copying of the record concerned by the FOI body concerned for the requester.

(2) For the purposes of *subsection (1)* "search for and retrieval" includes time spent by the FOI body in—

(a) determining whether it holds the information requested,

(b) locating the information or documents containing the information,

(c) retrieving such information or documents,

(d) extracting the information from the files, documents, electronic or other information sources containing both it and other material not relevant to the request, and

(e) preparing a schedule specifying the records for consideration for release.

(3) For the purposes of *subsection (1)*—

(a) the amount of the cost of the search for and retrieval of a record shall be calculated at the rate of such amount per hour as stands prescribed for the time being in respect of the time that was spent, or ought, in the opinion of the head concerned, to have been spent, by each person concerned in carrying out the search and retrieval efficiently,

(b) the amount of the cost of the copying of a record shall not exceed such amount (if any) as stands prescribed for the time being, and the determination of that amount shall be in compliance with any provisions standing prescribed for the time being in relation to such determination,

(c) subject to *subsection (12)* the total amount of a charge under *subsection (1)* shall not exceed such amount as stands prescribed for the time being as the appropriate maximum amount for search and retrieval and copying,

(d) there shall be no charge under *subsection (1)* if, in the opinion of the head concerned, the total amount of the charge would be less than such amount (if any) as stands prescribed for the time being as the appropriate minimum amount for search and retrieval and copying, and

(e) different maximum and minimum amounts may be prescribed under this subsection in respect of different public bodies or prescribed bodies and the power to prescribe such a maximum (in relation to any particular body) shall be exercised in a manner to take account of the greater amount that *subsection (12)* provides for the prescription of (in relation to that body) as concerns the overall ceiling limit.

(4) Where the record or records concerned contains or contain only personal information relating to the requester concerned the charge under *subsection (1)* shall not be made, unless the grant concerned relates to a significant number of records, and in

considering whether or not such a charge shall be made, the means of the requester shall be taken into account.

(5) Subject to *subsection (3)*, where, in the opinion of the head concerned, the estimated cost, as determined by the head, of the search for and retrieval and copying of a record the subject of an FOI request is likely to exceed the appropriate minimum level as prescribed—

(a) a deposit of such amount as may be determined by the head (not being less than 20 per cent of such cost) shall be charged by the FOI body concerned and paid by the requester concerned to the body,

(b) the process of search for and retrieval of the record shall not be commenced by the body until the deposit has been paid, and

(c) the head shall, not later than 2 weeks after the receipt of the request aforesaid, cause a notice in writing for payment of the deposit to be given to the requester and the notice shall include an estimate of the length of time that the process of searching for and retrieving the record will occupy and a statement that the process will not begin until the deposit has been paid and that the date on which a decision will be made in relation to the request will be determined by reference to the date of such payment.

(6) A head may reduce the amount of or waive a search and retrieval and copying charge or deposit under *subsection (1)* or *(5)* if, in his or her opinion, some or all of the information contained in the record concerned would be of particular assistance to the understanding of an issue of national importance.

(7) In a case to which *subsection (5)* applies, the head concerned shall, if so requested by the requester concerned—

(a) assist the requester if the requester wishes to amend or limit the request in order to reduce or eliminate the charges that arise or are likely to arise under *subsection (1)*,

(b) if amendments are specified under *paragraph (a)*, make such of them (if any) to the request as the requester may determine.

(8) Where a deposit under *subsection (5)* is paid, the amount of the charge under *subsection (1)* payable in respect of the grant of the FOI request concerned shall be reduced by the amount of the deposit.

(9) Where a deposit under *subsection (5)* is paid and, subsequently, the grant of the FOI request concerned is refused or is granted in relation to a part only of the record concerned, the amount of the deposit or, if a charge under this section is payable in respect of the grant, so much (if any) of that amount as exceeds the amount of the charge shall be repaid to the requester concerned.

(10) Where a charge or a deposit under this section is paid, and subsequently, the charge or deposit is annulled or varied under *section 21*, *22* or *24*, the amount of the charge or deposit so annulled or, as the case may be, any amount thereof in excess of the amount thereof as so varied shall be repaid to the requester concerned.

(11) *Section 13(1)* shall be construed and have effect—

(a) in relation to a case in which a deposit is payable under *subsection (5)*, as if the reference to 4 weeks were a reference to a period consisting of 4 weeks together with the period from the giving of the notice under *subsection (5)(c)* concerned to the requester concerned to the date of the receipt of the deposit,

(b) in relation to a case in which such a deposit is annulled following a review under *section 21* or *22* or an appeal under *section 24*, as if the reference to 4 weeks were a reference to a period consisting of 4 weeks together with the period from the giving of the notice under *subsection (5)(c)* to the requester concerned to the date of the decision under *section 24* or, as the case may be, of the giving to the requester concerned of notice under *section 21* or *22* of the decision, and

(c) in relation to a case in which an amendment pursuant to *subsection (7)* has the effect of eliminating such a deposit, as if the reference to the receipt of a request under that section were a reference to the making of the amendment.

(12) (a) Where the amount of a search and retrieval and copying charge under *subsection (1)* exceeds or is likely to exceed the overall ceiling limit prescribed, under *paragraph (b)*, for the purposes of this subsection—

(i) the body concerned shall so inform the requester,

(ii) the body shall assist the requester if the requester wishes to amend or limit the request in order to reduce the charges that arise or are likely to arise under *subsection (1)* to an amount less than or equal to the overall ceiling limit so prescribed,

(iii) if the requester does not amend or limit the request such that the charges that arise or are likely to arise under *subsection (1)* are reduced to an amount less than or equal to the overall ceiling limit so prescribed, the body may refuse the request, and

(iv) where the body decides to process the request, the requester shall be required to pay the full cost of the charges likely to be payable and *subsection (5)* shall apply.

(b) There shall be prescribed for the purposes of this subsection an amount to be called, and in this section referred to, as the overall ceiling limit; and different such amounts may be prescribed for those purposes in respect of different public bodies or prescribed bodies.

(13) (a) A fee of such amount (if any) as may be prescribed shall be charged by the FOI body concerned under this subsection and paid by the applicant concerned to—

(i) the body in respect of an application under *section 21*, or

(ii) the Commissioner in respect of an application under *section 22*.

(b) A fee under this subsection shall be paid at the time of the making of the application concerned and, if it is not so paid, the head concerned or, as the case may be, the Commissioner shall refuse to accept the application, and it shall be

deemed, for the purposes of this Act, not to have been made.

(c) Fees of different amounts may be prescribed under *paragraph (a)* in respect of different classes of applicant.

(14) An FOI body shall endeavour to establish a facility by which payment or refund of any fees due under this Act may be made electronically.

PART 4

Exempt Records

Meetings of the Government

28. (1) A head may refuse to grant an FOI request if the record concerned—

(a) has been, or is proposed to be, submitted to the Government for its consideration by a Minister of the Government or the Attorney General and was created for that purpose,

(b) is a record of the Government other than a record by which a decision of the Government is published to the general public by or on behalf of the Government, or

(c) contains information (including advice) for a member of the Government, the Attorney General, a Minister of State, the Secretary General to the Government for use by him or her solely for the purpose of the transaction of any business of the Government at a meeting of the Government.

(2) A head shall refuse to grant an FOI request if the record concerned—

(a) contains the whole or part of a statement made at a meeting of the Government or information that reveals, or from which may be inferred, the substance of the whole or part of such a statement, and

(b) is not a record—

(i) referred to in *paragraph (a)* or *(c)* of *subsection (1)*, or

(ii) by which a decision of the Government is published to the general public by or on behalf of the Government.

(3) Subject to this Act, *subsection (1)* does not apply to a record referred to in that subsection—

(a) if and in so far as it contains factual information relating to a decision of the Government that has been published to the general public, or

(b) if the record relates to a decision of the Government that was made more than 5 years before the receipt by the head concerned of the FOI request concerned.

(4) A decision to grant an FOI request in respect of a record to which *paragraph (a)* or *(b)* of *subsection (1)* applies shall not be made unless, in so far as it is practicable to do

so, the head concerned has, prior to the making of the decision, consulted in relation to the request with—

(a) the leader of each political party to which belonged a member of the Government that made any decision to which the record relates, and

(b) any member of the Government aforesaid who was not a member of a political party.

(5) Where an FOI request relates to a record to which *subsection (1)* applies, or would, if the record existed, apply, and the head concerned is satisfied that the disclosure of the existence or non-existence of the record would be contrary to the public interest, he or she shall refuse to grant the request and shall not disclose to the requester concerned whether or not the record exists.

(6) In this section—

"decision of the Government" includes the noting or approving by the Government of a record submitted to them;

"record" includes a preliminary or other draft of the whole or part of the material contained in the record;

''Government'' includes a committee of the Government, that is to say, a committee appointed by the Government whose membership consists of—

(a) members of the Government, or

(b) one or more members of the Government together with either or both of the following:

(i) one or more Ministers of State;

(ii) the Attorney General.

Deliberations of FOI bodies

29. (1) A head may refuse to grant an FOI request—

(a) if the record concerned contains matter relating to the deliberative processes of an FOI body (including opinions, advice, recommendations, and the results of consultations, considered by the body, the head of the body, or a member of the body or of the staff of the body for the purpose of those processes), and

(b) the granting of the request would, in the opinion of the head, be contrary to the public interest,

and, without prejudice to the generality of *paragraph (b)*, the head shall, in determining whether to grant or refuse to grant the request, consider whether the grant thereof would be contrary to the public interest by reason of the fact that the requester concerned would thereby become aware of a significant decision that the body proposes to make.

(2) *Subsection (1)* does not apply to a record if and in so far as it contains any or all of the following:

(a) matter such as rules, procedures, guidelines, interpretations and precedents used, or intended to be used, by an FOI body for the purpose of making decisions, determinations or recommendations;

(b) factual information;

(c) the reasons for the making of a decision by an FOI body;

(d) a report of an investigation or analysis of the performance, efficiency or effectiveness of an FOI body in relation to the functions generally or a particular function of the body;

(e) a report, study or analysis of a scientific or technical expert relating to the subject of his or her expertise or a report containing opinions or advice of such an expert and not being a report used or commissioned for the purposes of a decision of an FOI body made pursuant to any enactment or scheme.

Functions and negotiations of FOI bodies

30. (1) A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to—

(a) prejudice the effectiveness of tests, examinations, investigations, inquiries or audits conducted by or on behalf of an FOI body or the procedures or methods employed for the conduct thereof,

(b) have a significant, adverse effect on the performance by an FOI body of any of its functions relating to management (including industrial relations and management of its staff), or

(c) disclose positions taken, or to be taken, or plans, procedures, criteria or instructions used or followed, or to be used or followed, for the purpose of any negotiations carried on or being, or to be, carried on by or on behalf of the Government or an FOI body.

(2) *Subsection (1)* shall not apply in relation to a case in which in the opinion of the head concerned, the public interest would, on balance, be better served by granting than by refusing to grant the FOI request concerned.

Parliamentary, court and certain other matters

31. (1) A head shall refuse to grant an FOI request if the record concerned—

(a) would be exempt from production in proceedings in a court on the ground of legal professional privilege,

(b) is such that the head knows or ought reasonably to have known that its disclosure would constitute contempt of court, or

(c) consists of—

(i) the private papers of a member of the European Parliament or a member of a local authority, or

(ii) opinions, advice, recommendations, or the results of consultations, considered by—

(I) either House of the Oireachtas or the Chairman or Deputy Chairman or any other member of either such House or a member of the staff of the Houses of the Oireachtas Service for the purposes of the proceedings at a sitting of either such House, or

(II) a committee appointed by either such House or jointly by both such Houses and consisting of members of either or both of such Houses or a member of such a committee or a member of the staff of the Houses of the Oireachtas Service for the purposes of the proceedings at a meeting of such a committee.

(2) A head may refuse to grant an FOI request if the record concerned relates to the appointment or proposed appointment, or the business or proceedings, of—

(a) a tribunal to which the Tribunals of Inquiry (Evidence) Act 1921 applies,

(b) any other tribunal or other body or individual appointed by the Government or a Minister of the Government to inquire into specified matters at least one member, or the sole member, of which holds or has held judicial office or is a barrister or a solicitor, or

(c) any tribunal or other body or individual appointed by either or both of the Houses of the Oireachtas to inquire into specified matters,

and the request is made at a time when it is proposed to appoint the tribunal, body or individual or at a time when the performance of the functions of the tribunal, body or individual has not been completed.

(3) *Subsection (2)* does not apply to a record in so far as it relates to the general administration of, or of any offices of, a tribunal or other body or an individual specified in that subsection.

(4) Where an FOI request relates to a record to which *subsection (1)(a)* applies, or would, if the record existed, apply, and the head concerned is satisfied that the disclosure of the existence or non-existence of the record would be contrary to the public interest, he or she shall refuse to grant the request and shall not disclose to the requester concerned whether or not the record exists.

Law enforcement and public safety

32. (1) A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to—

(a) prejudice or impair—

(i) the prevention, detection or investigation of offences, the apprehension or prosecution of offenders or the effectiveness of lawful methods, systems, plans or procedures employed for the purposes of the matters aforesaid,

(ii) the enforcement of, compliance with or administration of any law,

(iii) lawful methods, systems, plans or procedures for ensuring the safety of the public and the safety or security of persons and property,

(iv) the fairness of criminal proceedings in a court or of civil proceedings in a court or other tribunal,

(v) the security of a penal institution,

(vi) the security of a children detention school within the meaning of section 3 of the Children Act 2001,

(vii) the security of a remand centre designated under section 88 of the Children Act 2001,

(viii) the security of the Central Mental Hospital,

(ix) the security of a building or other structure or a vehicle, ship, boat or aircraft, or

(x) the security of any system of communications, whether internal or external, of the Garda Síochána, the Defence Forces, the Revenue Commissioners or a penal institution,

(b) endanger the life or safety of any person, or

(c) facilitate the commission of an offence.

(2) Where an FOI request relates to a record to which *subsection (1)* applies, or would, if the record existed, apply, and the head concerned is satisfied that the disclosure of the existence or non-existence of the record would have an effect specified in *paragraph (a)*, *(b)* or *(c)* of that subsection, he or she shall refuse to grant the request and shall not disclose to the requester concerned whether or not the record exists.

(3) *Subsection (1)* does not apply to a record—

(a) if it—

(i) discloses that an investigation for the purpose of the enforcement of any law, or anything done in the course of such an investigation or for the purposes of the prevention or detection of offences or the apprehension or prosecution of offenders, is not authorised by law or contravenes any law, or

(ii) contains information concerning—

(I) the performance of the functions of an FOI body whose functions include functions relating to the enforcement of law or the ensuring of the safety of the public (including the effectiveness and efficiency of such performance), or

(II) the merits or otherwise or the success or otherwise of any programme, scheme or policy of an FOI body for preventing, detecting or investigating contraventions of the law or the effectiveness or efficiency of the implementation of any such programme, scheme or policy by an FOI body,

and

(b) in the opinion of the head concerned, the public interest would, on balance, be better served by granting than by refusing to grant the request concerned.

(4) For the purposes of *subsection (1)* "penal institution" means any or all of the following:

(a) a place to which the Prisons Acts 1826 to 2007 apply;

(b) a military prison or detention barrack within the meaning, in each case, of the Defence Act 1954;

(c) Saint Patrick's Institution.

Security, defence and international relations

33. (1) A head may refuse to grant an FOI request in relation to a record (and in particular but without prejudice to the generality otherwise of this subsection, to a record to which *subsection (2)* applies) if, in the opinion of the head, access to it could reasonably be expected to affect adversely—

(a) the security of the State,

(b) the defence of the State,

(c) matters relating to Northern Ireland, or

(d) the international relations of the State.

(2) This subsection applies to a record that—

(a) contains information that relates to the tactics, strategy or operations of the Defence Forces in or outside the State, or

(b) contains a communication between a Minister of the Government or his or her Department or Office and a diplomatic mission or consular post in the State or of the State or a communication between the Government or an officer of a Minister of the Government or another person acting on behalf of such a Minister and another government or a person acting on behalf of another government—

(i) other than where such information was communicated in confidence or relates to negotiations between the State and the other state in question or in relation to such a state, or is a record of that other state containing information the disclosure of which is prohibited by that state, or

(ii) other than a record containing analysis, opinions, advice, recommendations and the results of consultations or information the release of which, in the opinion of the head, could reasonably be expected to affect adversely the international relations of the State,

in which case (that is to say, either of the cases falling within *subparagraph (i)* or *(ii)*), the request shall be refused.

(3) A head shall refuse to grant an FOI request if the record concerned—

(a) contains information that was obtained or prepared for the purpose of intelligence in respect of the security or defence of the State,

(b) contains information that relates to the detection, prevention or suppression of activities calculated or tending to undermine the public order or the authority of the State (which expression has the same meaning as in section 2 of the Offences Against the State Act 1939), or

(c) contains information communicated in confidence—

(i) to any person in or outside the State from any person in or outside the State (including any law enforcement agency) and relating to a matter referred to in *subsection (1)*, or to the protection of human rights and expressed by the latter person to be confidential or to be communicated in confidence,

(ii) from, to, or within an international organisation of states or a subsidiary organ of such an organisation or an institution or body of the European Union, or relates to negotiations between the State and such an organisation, organ, institution or within or in relation to such an organisation, organ, institution or body, or is a record of such a body containing information the disclosure of which is prohibited by the organisation, organ, institution or body, or

(iii) (whether generated in the State or elsewhere) in the possession of a public body in relation to planning for, or responses to, threats or incidents in respect of network and information security.

(4) Where an FOI request relates to a record to which *subsection (1)* applies, or would, if the record existed, apply, and the head concerned is satisfied that the disclosure of the existence or non-existence of the record would prejudice a matter referred to in that subsection, he or she shall refuse to grant the request and shall not disclose to the requester concerned whether or not the record exists.

Conclusiveness of certain decisions pursuant to *sections 32* and *33*

34. (1) (a) Subject to *paragraph (b)*, where—

(i) a Minister of the Government or the head of an FOI body (other than a Department of State) in relation to which functions stand conferred on that Minister of the Government—

(I) pursuant to *section 13*, refuses to grant an FOI request to him or her, or

(II) pursuant to *section 21*, upholds a decision, or decides, to refuse to grant an FOI request,

because he or she is satisfied that, by virtue of *section 32* or *33*, the record concerned is an exempt record, and

(ii) the Minister of the Government is satisfied, that the record is of sufficient sensitivity or seriousness to justify his or her doing so,

the Minister of the Government may declare, in a certificate issued by him or her

("certificate"), that the record is, by virtue of *section 32* or *33*, an exempt record.

(b) A Minister of the Government shall not issue a certificate in respect of a record the subject of a decision referred to in *clause (I)* or *(II)* of *paragraph (a)(i)* by the head of an FOI body (other than a Department of State) unless he or she has been requested by the head, in writing or such other form as may be determined, to do so.

(2) Where an application is made to a head for the review under *section 21* of a decision to refuse to grant an FOI request, a certificate shall not be issued in respect of the record concerned more than 3 weeks after the date of the receipt of the application by that head.

(3) While a certificate is in force—

(a) the record to which it relates shall, subject to this Act, be deemed conclusively to be an exempt record, and

(b) an application for a review under *section 21* or *22*, as may be appropriate, of the decision concerned under *section 13* or *21* in relation to the record shall not lie.

(4) A document purporting to be a certificate and to be signed by a Minister of the Government shall, unless the contrary is proved, be deemed to be a certificate of that Minister of the Government and to be in force and shall be received in any proceedings in a court or under *section 21* or *22* without further proof.

(5) A certificate shall specify—

(a) the FOI request concerned,

(b) the provisions of *section 32* or *33*, as may be appropriate, by reference to which the record to which it relates is an exempt record,

(c) the date on which the certificate is signed by the Minister of the Government concerned and the date of its expiration, and

(d) the name of the requester,

and shall be signed by the Minister of the Government by whom it is issued.

(6) Upon the issue of a certificate, the Minister of the Government concerned shall cause—

(a) a copy of the certificate to be furnished forthwith to the requester concerned, and

(b) a copy of the certificate and a statement in writing of the reasons why the record to which it relates is an exempt record and of the matter by reference to which the Minister of the Government is satisfied that *subsection (1)(a)(ii)* applies to the record to be furnished forthwith to the Taoiseach and such other Ministers of the Government as may be prescribed.

(7) (a) Subject to *paragraph (b)*, the Taoiseach, jointly with any other Ministers of the Government standing prescribed under *subsection (6)*, shall—

(i) as soon as may be after 1 January 2015, review the operation of *subsection*

(1), and

(ii) on the expiration of each period of 12 months (or such other period not exceeding 24 months in length as may be prescribed) from that date, review the operation of *subsection (1)* during that period.

(b) A Minister of the Government shall not take part in a review under this subsection in so far as it relates to a certificate issued by him or her but may make submissions to the other Ministers of the Government concerned in relation to the part of such a review in which he or she is precluded as aforesaid from taking part.

(c) If, following a review under this subsection, the Ministers of the Government concerned are not satisfied—

(i) that a record to which the certificate concerned relates is an exempt record, or

(ii) that any of the information contained in the record is of sufficient sensitivity or seriousness to justify the continuance in force of the certificate,

they shall request the Minister of the Government concerned to revoke the certificate.

(d) A Minister of the Government may, for the purposes of a review by that Minister of the Government under this subsection, examine all relevant records held by or on behalf of or under the control of another head.

(8) (a) The Taoiseach may, at any time, review the operation of *subsection (1)* in so far as it relates to any other Minister of the Government or the issue of a particular certificate by another Minister of the Government.

(b) *Paragraph (c)* and *(d)* of *subsection (7)* shall have effect in relation to a review under this subsection with the necessary modifications.

(9) A Minister of the Government may, and shall, if so requested pursuant to *subsection (7)(c)*, by instrument signed by him or her, revoke a certificate issued by that Minister of the Government and, if he or she does so, he or she shall cause the requester concerned to be furnished forthwith with a copy of the instrument.

(10) If a certificate or the decision concerned under *section 13* or *21* in relation to a record to which a certificate relates is annulled by the High Court under *section 24*, the certificate shall thereupon expire.

(11) A Minister of the Government shall, in each year after the year in which this section comes into operation, cause to be prepared and furnished to the Commissioner a report in writing specifying the number of certificates issued by him or her in the preceding year and the provisions of *section 32* or *33*, as may be appropriate, by virtue of which, pursuant to *section 13*, the grant of the FOI request concerned was refused, or, pursuant to *section 21*, a decision to uphold a decision to refuse to grant, the FOI request concerned was made.

(12) Where a certificate is revoked or has expired and another certificate is not in force in

relation to the record concerned or the certificate is annulled under *section 24*, the requester concerned may make an application for a review under *section 21* or *22*, as may be appropriate, of the decision concerned under *section 13* or *21* not later than 28 days after the date of the revocation, expiration or annulment, as the case may be.

(13) Subject to *subsections (9)* and *(10)*, a certificate shall remain in force for a period of 2 years after the date on which it is signed by the Minister of the Government concerned and shall then expire, but a Minister of the Government may, at any time, issue a certificate under this section in respect of a record in relation to which a certificate had previously been issued, unless pursuant to—

(a) a decision (which has not been reversed) following a review under *sections 21* or *22*, or

(b) a decision under *section 24* on an appeal to the High Court,

the record is not an exempt record.

Information obtained in confidence

35. (1) Subject to this section, a head shall refuse to grant an FOI request if—

(a) the record concerned contains information given to an FOI body, in confidence and on the understanding that it would be treated by it as confidential (including such information as aforesaid that a person was required by law, or could have been required by the body pursuant to law, to give to the body) and, in the opinion of the head, its disclosure would be likely to prejudice the giving to the body of further similar information from the same person or other persons and it is of importance to the body that such further similar information as aforesaid should continue to be given to the body, or

(b) disclosure of the information concerned would constitute a breach of a duty of confidence provided for by a provision of an agreement or enactment (other than a provision specified in *column (3)* in *Part 1* or *2* of *Schedule 3* of an enactment specified in that Schedule) or otherwise by law.

(2) *Subsection (1)* shall not apply to a record which is prepared by a head or any other person (being a director, or member of the staff of, an FOI body or a service provider) in the course of the performance of his or her functions unless disclosure of the information concerned would constitute a breach of a duty of confidence that is provided for by an agreement or statute or otherwise by law and is owed to a person other than an FOI body or head or a director, or member of the staff of, an FOI body or of such a service provider.

(3) Subject to *section 38*, *subsection (1)(a)* shall not apply in relation to a case in which, in the opinion of the head concerned, the public interest would, on balance, be better served by granting than by refusing to grant the FOI request concerned.

(4) Where—

(a) an FOI request relates to a record to which *subsection (1)* applies but to which *subsection (2)* and *(3)* do not apply or would not, if the record existed, apply, and

(b) in the opinion of the head concerned, the disclosure of the existence or non-existence of the record would have an effect specified in *subsection (1)*,

he or she shall refuse to grant the request and shall not disclose to the requester concerned whether or not the record exists.

(5) Subject to *section 2*, in this section "record" includes information conveyed in confidence in person, by telephone, electronically or in writing (including a written note taken of a phone message by a person authorised to receive such message).

Commercially sensitive information

36. (1) Subject to *subsection (2)*, a head shall refuse to grant an FOI request if the record concerned contains—

(a) trade secrets of a person other than the requester concerned,

(b) financial, commercial, scientific or technical or other information whose disclosure could reasonably be expected to result in a material financial loss or gain to the person to whom the information relates, or could prejudice the competitive position of that person in the conduct of his or her profession or business or otherwise in his or her occupation, or

(c) information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates.

(2) A head shall grant an FOI request to which *subsection (1)* relates if—

(a) the person to whom the record concerned relates consents, in writing or in such other form as may be determined, to access to the record being granted to the requester concerned,

(b) information of the same kind as that contained in the record in respect of persons generally or a class of persons that is, having regard to all the circumstances, of significant size, is available to the general public,

(c) the record relates only to the requester,

(d) information contained in the record was given to the FOI body concerned by the person to whom it relates and the person was informed on behalf of the body, before its being so given, that the information belongs to a class of information that would or might be made available to the general public, or

(e) disclosure of the information concerned is necessary in order to avoid a serious and imminent danger to the life or health of an individual or to the environment,

but, in a case falling within *paragraph (a)* or *(c)*, the head shall ensure that, before granting the request, the identity of the requester or, as the case may be, the consent of the person is established to the satisfaction of the head.

(3) Subject to *section 38*, *subsection (1)* does not apply in relation to a case in which, in the opinion of the head concerned, the public interest would, on balance, be better served by granting than by refusing to grant the FOI request.

(4) Where—

(a) an FOI request relates to a record to which *subsection (1)* applies but to which *subsections (2)* and *(3)* do not apply or would not, if the record existed, apply, and

(b) in the opinion of the head concerned the disclosure of the existence or non-existence of the record would have an effect specified in *subsection (1)*,

he or she shall refuse to grant the request and shall not disclose to the requester concerned whether or not the record exists.

Personal information

37. (1) Subject to this section, a head shall refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would involve the disclosure of personal information (including personal information relating to a deceased individual).

(2) *Subsection (1)* does not apply if—

(a) subject to *subsection (3)*, the information concerned relates to the requester concerned,

(b) any individual to whom the information relates consents, in writing or such other form as may be determined, to its disclosure to the requester,

(c) information of the same kind as that contained in the record in respect of individuals generally, or a class of individuals that is, having regard to all the circumstances, of significant size, is available to the general public,

(d) the information was given to the FOI body concerned by the individual to whom it relates and the individual was informed on behalf of the body, before its being so given, that the information belongs to a class of information that would or might be made available to the general public, or

(e) disclosure of the information is necessary in order to avoid a serious and imminent danger to the life or health of an individual,

but, in a case falling within *paragraph (a)* or *(b)*, the head concerned shall ensure that, before the FOI request concerned is granted, the identity of the requester or, as the case may be, the consent of the individual is established to the satisfaction of the head.

(3) Where an FOI request relates to—

(a) a record of a medical or psychiatric nature relating to the requester concerned, or

(b) a record kept for the purposes of, or obtained in the course of the carrying out of, social work in relation to the requester,

and, in the opinion of the head concerned, disclosure of the information concerned to the requester might be prejudicial to his or her physical or mental health, well-being or emotional condition, the head may decide to refuse to grant the request.

(4) Where, pursuant to *subsection (3)*, a head refuses to grant an FOI request—

(a) there shall be included in the notice under *section 13(1)* in relation to the matter a statement to the effect that, if the requester requests the head to do so, the head will offer access to the record concerned, and keep it available for that purpose, in accordance with *section 13(3)* to such health professional having expertise in relation to the subject-matter of the record as the requester may specify, and

(b) if the requester so requests the head, he or she shall offer access to the record to such health professional as aforesaid, and keep it available for that purpose, in accordance with *section 13(3)*.

(5) Where, as respects an FOI request the grant of which would, but for this subsection, fall to be refused under *subsection (1)*, in the opinion of the head concerned, on balance—

(a) the public interest that the request should be granted outweighs the public interest that the right to privacy of the individual to whom the information relates should be upheld, or

(b) the grant of the request would benefit the individual aforesaid,

the head may, subject to *section 38*, grant the request.

(6) Where—

(a) an FOI request relates to a record to which *subsection (1)* applies but to which *subsection (2)* and *(5)* do not apply or would not, if the record existed, apply, and

(b) in the opinion of the head concerned the disclosure of the existence or non-existence of the record would have the effect specified in *subsection (1)*,

he or she shall refuse to grant the request and shall not disclose to the requester concerned whether or not the record exists.

(7) Notwithstanding *paragraph (a)* of *subsection (2)*, a head shall, subject to *paragraphs (b)* to *(e)* of that subsection and *subsections (5)* and *(8)*, refuse to grant an FOI request if, in the opinion of the head, access to the record concerned would, in addition to involving the disclosure of personal information relating to the requester, also involve the disclosure of personal information relating to an individual or individuals other than the requester.

(8) Notwithstanding *subsection (1)*, the Minister may provide by regulations for the grant of an FOI request where—

(a) the individual to whom the record concerned relates belongs to a class specified in the regulations and the requester concerned is the parent or guardian of the individual, or

(b) the individual to whom the record concerned relates is dead and the requester concerned is a member of a class specified in the regulations.

(9) In this section "health professional" means a medical practitioner, within the meaning of the Medical Practitioners Act 2007, a registered dentist, within the meaning of the Dentists Act 1985, or a member of any other class of health worker or social worker standing prescribed, after consultation with such (if any) other Ministers of the

Government as the Minister considers appropriate.

Procedure in relation to certain FOI requests to which *section 35*, *36* or *37* applies

38. (1) In this section "request to which this section applies" means an FOI request to which *section 35(3)*, *section 36(3)* or *section 37(5)(a)* applies and which, apart from this section, would fall to be granted.

(2) Subject to *subsection (6)*, before deciding whether to grant a request to which this section applies, a head shall, not later than 2 weeks after the receipt of the request—

(a) if the request is one to which *section 35(3)* applies, cause the person who gave the information concerned to the FOI body concerned and, if the head considers it appropriate, the person to whom the information relates, or

(b) if the request is one to which *section 36(3)* or *37(5)(a)* applies, cause the person to whom the information relates,

to be notified, in writing or in such other form as may be determined—

(i) of the request and that, apart from this section, it falls, in the public interest, to be granted,

(ii) that the person may, not later than 3 weeks after the receipt of the notification, make submissions to the head in relation to the request, and

(iii) that the head will consider any such submissions before deciding whether to grant or refuse to grant the request.

(3) (a) The head may, as respects a request to which this section applies received by him or her, extend the period specified in *subsection (2)* for compliance with that subsection by such period as he or she considers necessary but not exceeding a period of 2 weeks if in the opinion of the head—

(i) the request relates to such number of records, or

(ii) the number of persons required by *subsection (2)* to be notified of the matters referred to in *paragraph (i)* to *(iii)* of that subsection is such,

that compliance with that subsection within the period specified therein is not reasonably possible.

(b) Where a period is extended under this subsection, the head concerned shall cause notice in writing, or in such other form as may be determined, to be given to the requester concerned, before the expiration of the period, of the extension and the period thereof and reasons therefor.

(c) The reference in *subsection (2)* to 2 weeks shall be construed in accordance with any extension under this subsection of that period.

(4) A person who receives a notification under *subsection (2)* may, not later than 3 weeks after such receipt, make submissions to the head concerned in relation to the request to which this section applies referred to in the notification and the head—

(a) shall consider any such submissions so made before deciding whether to grant the

request,

(b) shall cause the person to be notified in writing or in such other form as may be determined of the decision, and

(c) if the decision is to grant the request, shall cause to be included in the notification particulars of the right of review of the decision under *section 22*, the procedure governing the exercise of that right and the time limit governing such exercise.

(5) Subject to *subsection (6)*, a head shall make a decision whether to grant a request to which this section applies, and shall comply with *subsection (4)* in relation thereto, not later than 2 weeks after—

(a) the expiration of the time specified in *subsection (4)*, or

(b) the receipt of submissions under that subsection in relation to the request from those concerned,

whichever is the earlier, and *section 13(1)* shall be construed and shall have effect accordingly.

(6) If, in relation to a request to which this section applies, the head concerned is unable to comply with *subsection (2)*, having taken all reasonable steps to do so, the head shall, if the Commissioner consents to the non-compliance, make a decision whether to grant or refuse the request not later than 7 weeks after the receipt of the request and in such a case *section 13(1)* shall be construed and shall have effect accordingly.

(7) If, in relation to a request to which this section applies, the Commissioner does not consent, pursuant to *subsection (6)*, to non-compliance with *subsection (2)*, he or she shall direct the head concerned to take specified steps within a specified period for the purpose of complying with *subsection (2)* and if, having taken those steps within that period or such further period as the Commissioner may specify, the head is unable to comply with that subsection, he or she shall, as soon as may be, make a decision whether to grant or refuse the request.

Research and natural resources

39. (1) A head may refuse to grant an FOI request if, in the opinion of the head—

(a) the record concerned contains information in relation to research being or to be carried out by or on behalf of an FOI body and disclosure of the information or its disclosure before the completion of the research would be likely to expose the body, any person who is or will be carrying out the research on behalf of the body or the subject matter of the research to serious disadvantage, or

(b) disclosure of information contained in the record could reasonably be expected to prejudice the well-being of a cultural, heritage or natural resource or a species, or the habitat of a species, of flora or fauna.

(2) *Subsection (1)* does not apply in relation to a case in which, in the opinion of the head concerned, the public interest would, on balance, be better served by granting than by refusing to grant the FOI request concerned.

Financial and economic interests of the State

40. (1) A head may refuse to grant an FOI request in relation to a record (and, in particular, but without prejudice to the generality otherwise of this subsection, to a record to which *subsection (2)* applies) if, in the opinion of the head—

(a) access to the record could reasonably be expected to have a serious, adverse effect on the ability of the Government to manage the national economy or on the financial interests of the State,

(b) premature disclosure of information contained in the record could reasonably be expected to result in undue disturbance of the ordinary course of business generally, or any particular class of business, in the State and access to the record would involve disclosure of the information that would, in all the circumstances, be premature,

(c) access to the record could reasonably be expected to have a negative impact on decisions by enterprises to invest or expand in the State, on their research activities or on the effectiveness of the industrial development strategy of the State, particularly in relation to the strategies of other states, or

(d) access to the record could reasonably be expected to result in an unwarranted benefit or loss to a person or class of persons.

(2) This subsection applies to a record relating to—

(a) rates of exchange or the currency of the State,

(b) taxes, revenue duties or other sources of income for the State, a local authority or any other public body,

(c) interest rates,

(d) borrowing by or on behalf of the State or a public body,

(e) the regulation or supervision by or on behalf of the State or a public body of the business of banking or insurance or the lending of money or of other financial business or of institutions or other persons carrying on any of the businesses aforesaid,

(f) dealings in securities or foreign currency,

(g) the regulation or control by or on behalf of the State or a public body of wages, salaries or prices,

(h) proposals in relation to expenditure by or on behalf of the State or a public body including the control, restriction or prohibition of any such expenditure,

(i) property or other assets held by or on behalf of the State or a public body and transactions or proposed or contemplated transactions involving such property, or other assets,

(j) foreign investment in enterprises in the State,

(k) industrial development in the State,

(l) trade between persons in the State and persons outside the State,

(m) trade secrets or financial, commercial, industrial, scientific or technical information belonging to the State or a public body, that are of substantial value or reasonably likely to be of substantial value,

(n) information the disclosure of which could reasonably be expected to affect adversely the competitive position of a public body in relation to activities carried on by it on a commercial basis,

(o) the economic or financial circumstances of a public body,

(p) investment or provision of financial support by or on behalf of the State or a public body,

(q) liabilities of the State or a public body, or

(r) advising on or managing public infrastructure projects, including public private partnership arrangements (within the meaning of the State Authorities (Public Private Partnership Arrangements) Act 2002).

(3) *Subsection (1)* does not apply in relation to a case in which, in the opinion of the head concerned, the public interest would, on balance, be better served by granting than by refusing to grant the FOI request concerned.

Enactments relating to non-disclosure of records

41. (1) A head shall refuse to grant an FOI request if—

(a) the disclosure of the record concerned is prohibited by law of the European Union or any enactment (other than a provision specified in *column (3)* of *Part 1* or *2* of *Schedule 3* of an enactment specified in that Schedule), or

(b) the non-disclosure of the record is authorised by any such enactment in certain circumstances and the case is one in which the head would, pursuant to the enactment, refuse to disclose the record.

(2) A joint committee of both Houses of the Oireachtas shall, if authorised in that behalf by both such Houses (and such a committee so authorised is referred to subsequently in this section as "the committee")—

(a) review from time to time the operation of any provisions of any enactment that authorise or require the non-disclosure of a record (other than a provision specified in the said *column (3)*) for the purpose of ascertaining whether, having regard to the provisions, purposes and spirit of this Act—

(i) any of those provisions should be amended or repealed, or

(ii) a reference to any of them should be included in the said *column (3)*,

and

(b) prepare and furnish to each such House a report in writing of the results of the review aforesaid and, if it considers it appropriate to do so, include in the report recommendations in relation to the amendment, repeal or continuance in force of,

or the inclusion in the said *column (3)* of a reference to, any of those provisions.

(3) A Minister of the Government shall, in accordance with *subsection (6)*, prepare and furnish to the committee reports in writing—

(a) specifying, as respects any enactments that confer functions on that Minister of the Government or on an FOI body in relation to which functions are vested in that Minister of the Government, any provisions thereof that authorise or require the non-disclosure of a record, and

(b) specifying whether, in the opinion of that Minister of the Government and (where appropriate) any such FOI body, formed having regard to the provisions, purposes and spirit of this Act—

(i) any of the provisions referred to in *paragraph (a)* should be amended, repealed or allowed to continue in force, or

(ii) a reference to any of them should be included in the said *column (3)*,

and outlining the reasons for the opinion.

(4) A Minister of the Government shall cause a copy of a report prepared by him or her under *subsection (3)* to be furnished to the Commissioner and to be laid before each House of the Oireachtas.

(5) The Commissioner may, and shall, if so requested by the committee, furnish to the committee his or her opinion and conclusions in relation to a report under *subsection (3)* or any matter contained in or arising out of such a report or any matter relating to or arising out of the operation of this section.

(6) The first report under *subsection (3)* of a Minister of the Government shall be furnished by him or her in accordance with that subsection not later than 30 days after the fifth anniversary of the day on which the last previous report, under section 32(3) of the Act of 1997, by him or her was furnished to the joint committee concerned, and subsequent reports under *subsection (3)* of that Minister of the Government shall be so furnished not later than 30 days after the fifth anniversary of the last previous such report by him or her was so furnished.

PART 5

Restriction of Act

Restriction of Act

42. This Act does not apply to—

(a) a record held by—

(i) the courts, or

(ii) a service tribunal within the meaning of section 161 of the Defence Act 1954,

and relating to, or to proceedings in, a court or such a tribunal, other than—

(I) a record that relates to proceedings in a court or such a tribunal held in public but was not created by the court or tribunal and whose disclosure to the general public is not prohibited by the court or the tribunal, or

(II) a record relating to the general administration of the courts or the offices of the courts or such a tribunal or any offices of such a tribunal,

(b) a record held or created by the Garda Síochána that relates to any of the following:

(i) the Emergency Response Unit;

(ii) the Secret Service Fund maintained by it;

(iii) the Special Detective Unit (SDU);

(iv) the witness protection programme sponsored by it;

(v) the Security and Intelligence Section;

(vi) the management and use of covert intelligence operations;

(vii) the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993;

(viii) the Criminal Justice (Terrorist Offences) Act 2005;

(ix) the Criminal Justice (Surveillance) Act 2009;

(x) the Communications (Retention of Data) Act 2011,

(c) a record held by—

(i) the Criminal Assets Bureau,

(ii) the Defence Forces relating to—

(I) the Offences against the State Acts 1939 to 1998,

(II) section 170 of the Defence Act 1954,

(III) the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993,

(IV) the Criminal Justice (Terrorist Offences) Act 2005,

(V) the Criminal Justice (Surveillance) Act 2009,

(VI) the Communications (Retention of Data) Act 2011, or

(VII) the Data Protection Acts 1988 and 2003 in respect of the statutory powers of an officer under section 8 of the Data Protection Act 1988,

(iii) the Independent Commission for the Location of Victims' Remains (within the meaning of the Criminal Justice (Location of Victims' Remains) Act 1999), and

(iv) the Independent Monitoring Commission (within the meaning of the Independent Monitoring Commission Act 2003),

(d) a record relating to—

(i) an inquiry within the meaning of section 42 of the Garda Síochána Act 2005, whether the record concerned is held by—

(I) persons conducting the inquiry, or

(II) on the dissolution of the inquiry, any other body having custody of such a record,

other than—

(A) a record relating to the appointment of a person to conduct an inquiry under section 42 of the Garda Síochána Act 2005, or

(B) a record relating to the expenses or other matters concerning the general administration of an inquiry under that section,

(e) a record relating to—

(i) an inquiry into any matter by a tribunal to which the Tribunals of Inquiry (Evidence) Act 1921, is applied, whether the record concerned—

(I) is held by the tribunal of inquiry, or

(II) is deposited with a person, or at a place, in compliance with the requirements of a notice under section 46(1) of the Civil Law (Miscellaneous Provisions) Act 2011 given to the chairman or former chairman, as the case may be, of the tribunal of inquiry,

or

(ii) an investigation by a commission of investigation within the meaning of the Commissions of Investigation Act 2004, whether the record concerned is held by—

(I) the commission of investigation,

(II) the specified Minister after being deposited with him or her under section 43(2) of the Commissions of Investigation Act 2004,

(III) a tribunal of inquiry after being made available to it under section 45 of that Act, or

(IV) a body after being transferred to it on the dissolution of a tribunal of inquiry to which the record was made available under section 45 of that Act,

other than—

(A) a record created before the appointment of the tribunal or the making of the order establishing the commission, or

(B) a record relating to the expenses of the tribunal or commission or other

matters concerning the general administration of the tribunal or commission,

(C) a record relating to the appointment of persons under section 7 or 8 of the Commissions of Investigation Act 2004,

(f) a record held or created by the Attorney General or the Director of Public Prosecutions or the Office of the Attorney General or the Office of Director of Public Prosecutions, other than a record relating to general administration,

(g) a record relating to an audit, inspection, investigation or examination carried out by the Comptroller and Auditor General under the Comptroller and Auditor General Acts 1923 to 1993, the Exchequer and Audit Department Acts 1866 and 1921, or any other enactment, other than—

(i) such a record that was created before the commencement of the investigation, audit, inspection or examination aforesaid, or

(ii) a record relating to the general administration of the Office of the Comptroller and Auditor General,

(h) a record relating to the President,

(i) a record held by the Central Bank of Ireland, the disclosure of which is prohibited by—

(i) the Rome Treaty,

(ii) the ESCB Statute, or

(iii) any of the Supervisory Directives,

within the meaning of the Central Bank Act 1942,

(j) a record given by an FOI body to a member of the Government or a Minister of State for use by him or her for the purposes of any proceedings in either House of the Oireachtas or any committee of either or both of such Houses or any subcommittee of such a committee (including such proceedings in relation to questions put by members of either such House to members of the Government or Ministers of State (whether answered orally or in writing)),

(k) a record relating to any of the private papers (within the meaning of Article 15.10 of the Constitution) of a member of either House of the Oireachtas or an official document of either or both of such Houses that is required by the rules or standing orders of either or both of such Houses to be treated as confidential,

(l) unless consent has been lawfully given for its disclosure, a record relating to any private paper or confidential communication, within the meaning of Part 10 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013, or official document, within the meaning of Part 11 of that Act, or

(m) a record relating to information whose disclosure could reasonably be expected to reveal, or lead to the revelation of—

(i) the identity of a person who has provided information in confidence in

relation to the enforcement or administration of the law to an FOI body, or where such information is otherwise in its possession, or

(ii) any other source of such information provided in confidence to an FOI body, or where such information is otherwise in its possession.

PART 6

The Information Commissioner

Continuance of office of Information Commissioner

43. (1) Notwithstanding the repeal of the Act of 1997 by *section 5*, the office of the Information Commissioner shall continue in being and the holder of the office shall continue in office and be known as the Information Commissioner.

(2) The Commissioner shall be a corporation sole with perpetual succession and an official seal and with power—

(a) to sue and be sued, and

(b) with the consent of the Minister and the Minister for Finance, to acquire, hold and dispose of land or an interest in land, and to acquire, hold and dispose of any other property.

(3) The Commissioner shall be independent in the performance of his or her functions.

(4) The appointment of a person to be the Commissioner shall be made by the President on the advice of the Government following a resolution passed by Dáil Éireann and by Seanad Éireann recommending the appointment of the person.

(5) (a) Subject to this section, *Schedule 2* shall have effect in relation to the Commissioner.

(b) Section 2(6) of the Ombudsman Act 1980 shall not apply to a person who holds the office of Ombudsman and also holds the office of Commissioner.

(c) *Paragraph 5* of *Schedule 2* shall not have effect in relation to remuneration in a case where the person who holds the office of Ombudsman also holds the office of Commissioner.

Review of operation of Act and investigations by Commissioner

44. (1) The Commissioner shall keep the operation of this Act under review and may carry out an investigation at any time into the practices and procedures adopted by FOI bodies generally or any particular FOI body or FOI bodies for the purposes of compliance with—

(a) the provisions of this Act generally, or

(b) any particular provisions of this Act.

(2) The Commissioner may at any time carry out an investigation into the practices and

procedures adopted by FOI bodies or any particular FOI body or FOI bodies for the purposes of enabling persons to exercise the rights conferred by this Act and facilitating such exercise.

(3) The Commissioner may at any time prepare a report, in writing or such other form as may be determined—

(a) of his or her findings and conclusions resulting from the performance of any function under *subsection (1)* or *(2)*, or

(b) on any matter relating to or arising out of the performance of such a function.

(4) The Commissioner shall, if he or she considers it appropriate to do so, cause a copy of a report under this section to be furnished to the Minister and to each FOI body concerned and shall cause a copy of the report to be appended to the report under *section 47(2)* prepared next after the preparation of the first-mentioned report.

Powers of Commissioner

45. (1) The Commissioner may, for the purposes of a review under *section 22* or an investigation under *section 44*—

(a) require any person who, in the opinion of the Commissioner, is in possession of information, or has a record in his or her power or control, that, in the opinion of the Commissioner, is relevant to the purposes aforesaid to furnish to the Commissioner any such information or record that is in his or her possession or, as the case may be, power or control and, where appropriate, require the person to attend before him or her for that purpose, and

(b) examine and take copies in any form of, or of extracts from any record that, in the opinion of the Commissioner, is relevant to the review or investigation and for those purposes take possession of any such record, remove it from the premises and retain it in his or her possession for a reasonable period.

(2) The Commissioner may for the purposes of such a review or investigation as aforesaid enter any premises occupied by an FOI body and there—

(a) require any person found on the premises to furnish him or her with such information in the possession of the person as he or she may reasonably require for the purposes aforesaid and to make available to him or her any record in his or her power or control that, in the opinion of the Commissioner, is relevant to those purposes, and

(b) examine and take copies of, or of extracts from, any record made available to him or her as aforesaid or found on the premises.

(3) Subject to *subsection (4)*, no enactment or rule of law prohibiting or restricting the disclosure or communication of information shall preclude a person from furnishing to the Commissioner any such information or record, as aforesaid.

(4) A person to whom a requirement is addressed under this section shall be entitled to the same immunities and privileges as a witness in a court.

(5) The Commissioner may, if he or she thinks fit, pay to any person who, for the purposes of a review under *section 22*, or an investigation under *section 44*, attends before the Commissioner or furnishes information or a record or other thing to him or her—

(a) sums in respect of travelling and subsistence expenses properly incurred by the person, and

(b) allowances by way of compensation for loss of his or her time,

of such amount as may be determined by the Minister.

(6) Subject to this Act, the procedure for conducting a review under *section 22* or an investigation under *section 44* shall be such as the Commissioner considers appropriate in all the circumstances of the case and, without prejudice to the foregoing, shall be as informal as is consistent with the due performance of the functions of the Commissioner.

(7) A person who fails or refuses to comply with a requirement under this section or who hinders or obstructs the Commissioner in the performance of his or her functions under this section shall be guilty of an offence and be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 6 months or both.

(8) Where an FOI body fails to comply with a binding decision of the Commissioner under this Act, the Information Commissioner may apply to the court for an order to oblige the FOI body to comply with the decision.

(9) This section does not apply to a record in respect of which a certificate under *section 34* is in force.

(10) *Subsection (2)* shall not apply to—

(a) information, documents or things designated by regulations made under section 126(1)(a) of the Garda Síochána Act 2005, or

(b) Garda Síochána stations designated by regulations made under section 126(1)(b) of the Garda Síochána Act 2005,

except to the extent specified in a direction of the Minister for Justice and Equality.

(11) In deciding where to issue a direction under *subsection (10)* the Minister shall take into account the public interest.

(12) The Commissioner shall comply with the provisions on professional secrecy in—

(a) the Rome Treaty,

(b) the ESCB Statute, or

(c) any of the Supervisory Directives,

(within the meaning of the Central Bank Act 1942) in holding and dealing with information contained in records provided to him or her by the Bank under this Act.

Publication of commentaries by Commissioner on practical application, etc., of Act

46. The Commissioner may prepare and publish commentaries on the practical application and operation of the provisions, or any particular provisions, of this Act, including commentaries based on the experience of holders of the office of Commissioner in relation to reviews, and decisions following reviews, of such holders under *section 22*.

Reports of Commissioner

47. (1) The Commissioner shall publish—

(a) any decision in relation to any review under *section 22*, and

(b) when proceedings have concluded, a summary of any appeal under *section 24*.

(2) The Commissioner shall annually prepare a report in relation to his or her activities under this Act in the previous year, append to the report a copy of any report furnished to him or her under *section 34(11)*, and cause copies of the report and copies of any reports furnished under *section 34(11)* to be laid before each House of the Oireachtas.

(3) The Commissioner may, if he or she considers it appropriate to do so in the public interest or in the interests of any person, prepare and publish a report in relation to any investigation, or review carried out or other function performed, by him or her under this Act or any matter relating to or arising in the course of such an investigation, review or performance.

PART 7

Miscellaneous

Code of practice and guidelines

48. (1) The Minister may draw up and publish a code of practice (the "code") and guidelines (including guidelines in relation to matters contained in the code) for the effective and efficient operation of this Act to assist FOI bodies in the performance of their functions under this Act.

(2) The code may include provisions to promote the publication of official and other information held by FOI bodies that might otherwise be the subject of FOI requests.

(3) FOI bodies shall have regard to the code and any guidelines in the performance of their functions under this Act.

(4) Notice of the making of a code under this section shall be published in *Iris Oifigiúil* as soon as convenient after the making thereof.

Immunity from legal proceedings

49. (1) This section applies to—

(a) an act consisting of the publication under *section 8* of a document specified in that section,

(b) an act consisting of the furnishing to a person under *section 10* of a statement specified in that section, or

(c) an act consisting of the grant or the grant in part under *section 13* or by virtue of *section 21* or *22* of an FOI request,

being an act that was required or authorised by, and complied with the provisions of, this Act or was reasonably believed by the head concerned to have been so required or authorised and to comply with this Act.

(2) Subject to this section, civil or criminal proceedings shall not lie in any court—

(a) against—

(i) the State,

(ii) an FOI body,

(iii) a head,

(iv) a director or a member of the staff of an FOI body, or

(v) a service provider,

in respect of an act to which this section applies or any consequences of such an act, or

(b) against the author of a record to which an act specified in *subsection (1)(c)* relates or any other person in respect of any publication involved in, or resulting from, that act by reason of that author or other person having supplied the record to the FOI body.

(3) *Subsection (2)* does not apply in relation to proceedings for breach of a duty imposed by *section 8*.

(4) Civil or criminal proceedings shall not lie in any court against the Commissioner or a member of the staff of the Commissioner in respect of anything said or done in good faith by the Commissioner or member in the course of the performance or purported performance of a function of the Commissioner or member.

(5) The grant of an FOI request shall not be taken as constituting an authorisation or approval of the doing by the requester concerned, in relation to any sound recording or film, contained in the record concerned, of any act otherwise prohibited.

(6) Without prejudice to the generality of *subsection (5)*, the grant of an FOI request shall not be taken as constituting an authorisation or approval—

(a) for the purposes of the law relating to defamation or breach of confidence, of the publication of the record concerned or any information contained therein by the requester concerned or any other person, or

(b) for the purposes of the law of copyright, of the doing by the requester concerned of any act restricted by copyright in—

(i) any literary, dramatic, musical or artistic work,

(ii) any sound recording, film or broadcast,

(iii) the typographical arrangement of a published edition, or

(iv) an original database,

contained in the record concerned.

(7) A word or expression that is used in *subsection (5)* or *(6)* and is also used in the Copyright and Related Rights Act 2000 has in those subsections the same meaning as in that Act.

Amendment of Central Bank Act 1942

50. Section 33AK(5) of the Central Bank Act 1942 is amended by substituting for paragraph (as) the following:

"(as) for the purposes of contractual or institutional protection schemes as referred to in Article 113(7) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013[1], or

(at) to the Information Commissioner that is required for the performance of that Commissioner's functions under the *Freedom of Information Act 2014*.".

Amendment of Official Secrets Act 1963

51. (1) A person who is, or reasonably believes that he or she is, authorised by this Act to communicate official information to another person shall be deemed for the purposes of section 4 of the Official Secrets Act 1963 to be duly authorised to communicate that information.

(2) In a prosecution for an offence under section 5 or 9 of that Act, it shall be a defence to prove that the act to which the charge of the offence relates is authorised, or is reasonably believed by the person charged to be authorised, by this Act.

Offence and penalty

52. Where an FOI request has been made in respect of a record, a person who without lawful excuse and with intention to deceive destroys or materially alters a record shall be guilty of an offence and be liable on summary conviction to a class B fine.

Proceedings for offences

53. (1) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under this Act may be instituted at any time within 12 months from the date of the offence or, if later, 12 months from the date on which evidence that, in the opinion of the person by whom the proceedings are brought, is sufficient to justify the bringing of the proceedings comes to that person's knowledge.

(2) Where an offence under this Act is committed by a body corporate or by a person

1 OJ No. L 176, 20.06.2013, p.1

purporting to act on behalf of a body corporate or an unincorporated body of persons and is proved to have been committed with the consent, connivance or approval of, or to have been attributable to any wilful neglect on the part of, any person who, when the offence was committed, was a director, a member of the committee of management or other controlling authority of the body concerned, or the manager, secretary or other officer of the body or a person who was purporting to act in any such capacity, that person shall also be guilty of an offence and be liable to be proceeded against and punished as if guilty of the first-mentioned offence.

Saver

54. (1) Subject to *subsection (2)*, and notwithstanding section 26(2)(d) or any other provision of the Interpretation Act 2005, regulations made under the Act of 1997 shall cease to be in force on the commencement of this Act.

(2) The Regulations specified in *Schedule 5* shall continue in force as if made under this Act and may be amended or revoked accordingly.

Transitional provisions

55. (1) Any action commenced under the Act of 1997 but not completed before the commencement of *section 5* of this Act shall continue to be performed and shall be completed after such commencement as if the Act of 1997 had not been repealed.

(2) Where, immediately before the commencement of *section 5*, any legal proceedings are pending to which the Commissioner is a party, the proceedings may continue as if the Act of 1997 had not been repealed.

SCHEDULE 1

Section 6

Part 1

PARTIALLY INCLUDED AGENCIES

Section 6 does not include a reference to—

(a) the Adoption Authority of Ireland, insofar as it relates to records concerning, or arising from, the making of an adoption order or the recognition of an intercountry adoption effected outside the State, within the meaning of the Adoption Act 2010;

(b) the Central Bank of Ireland, insofar as it relates to—

(i) records held by it containing—

(I) confidential personal information relating to the financial or business affairs of any individual, or

(II) confidential financial, commercial or regulatory information relating to the business affairs of any person who holds or has held or who has applied for a licence, authorisation, approval or registration from the Central Bank of Ireland, or is otherwise regulated by the Central Bank of Ireland,

that the Central Bank of Ireland has received for the purposes of performing, or in the discharge of, any of its statutory functions (other than when that information is contained in records in summary or aggregate form, such that persons cannot be identified from the record), and

(ii) records—

(I) held by the Central Bank of Ireland on the Central Credit Register established by it under section 5(1), or

(II) produced by the Central Bank of Ireland under section 30(1),

of the Credit Reporting Act 2013 (No. 45 of 2013);

(c) The Commission to Inquire into Child Abuse, in the performance of its functions under the Commission To Inquire Into Child Abuse Act 2000, other than insofar as it relates to records concerning the general administration of those functions;

(d) the Office of the Commissioner for Environmental Information, in the performance of its functions under the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007), other than insofar as it relates to records concerning the general administration of those functions;

(e) the Credit Union Restructuring Board (ReBo), insofar as it relates to any records held by it containing personal or confidential information (including

confidential financial or commercial information) concerning the business of any person or body, whether corporate or incorporate, held by that Board for the purposes of performing any of its statutory functions, other than where that information is presented in such a manner (whether aggregated, summarised or otherwise, or relating to more than one person) that ensures that no such personal or confidential information is disclosed and that no person or body can be identified from the records or information concerned;

(f) the Data Protection Commissioner, or an officer of the Commissioner, in relation to a record (save as regards a record concerning the general administration of the Office of the Commissioner);

(g) the Director of Corporate Enforcement, or an officer of the Director, in relation to a record held or created under the Companies Acts (save as regards a record concerning the general administration of the Office of the Director);

(h) education and training boards, insofar as it relates to any records that would enable the compilation of information (that is not otherwise available to the general public) concerning the comparative performance of schools in respect of the academic achievement of students enrolled therein, including, and without prejudice to the generality of the foregoing—

(i) the overall results in any year of students in a particular school in an examination or assessment, or

(ii) the comparative overall results in any year of students in different schools in an examination or assessment;

(i) EirGrid plc, other than insofar as it relates to records held by it relating to its functions under its transmission system operator licence granted under section 14(1)(e) of the Electricity Regulation Act 1999;

(j) ESB Networks Limited, other than insofar as it relates to records concerning its functions under its distribution system operator licence issued under section 14(1)(g) of the Electricity Regulation Act 1999;

(k) the Equality Tribunal, insofar as it relates to records concerning the provision of mediation services under the Employment Equality Acts 1998 to 2011, the Equal Status Acts 2000 to 2012 or the Pensions Acts 1990 to 2012, where parties to the process are participating in a voluntary capacity to try to settle such disputes;

(l) Gaslink Independent System Operator Limited, other than insofar as it relates to records held by it relating to its functions under its—

(i) transmission system operator licence granted under section 16(1)(d), or

(ii) distribution system operator licence granted under section 16(1)(f),

of the Gas (Interim) (Regulation) Act 2002 (amended by Regulation 41(b) of the European Communities (Internal Market in Natural Gas and Electricity) Regulations 2011 (S.I. No. 630 of 2011));

(m) the Forensic Science Laboratory of the Department of Justice and Equality, insofar as it relates to records concerning, or arising from, the forensic criminal investigation functions performed by that Laboratory, including the analysis of specimens or in connection with an investigation being undertaken by the Garda Síochána or the Garda Síochána Ombudsman Commission and the approval, supply, testing and maintenance of apparatus and of equipment;

(n) the Garda Síochána, other than insofar as it relates to administrative records relating to human resources, or finance or procurement matters;

(o) the Garda Síochána Inspectorate, insofar as it relates to records concerning an inspection or inquiry carried out by that Inspectorate under section 117(2) of the Garda Síochána Act 2005;

(p) Iarnród Éireann, insofar as it relates to the operation of Rosslare Europort and its freight operations in the State;

(q) the Office of the Information Commissioner, in the performance of its functions under this Act or under the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007), other than insofar as it relates to records concerning the general administration of those functions;

(r) the Insolvency Service of Ireland, in the performance of its functions under Part 2 of the Personal Insolvency Act 2012, other than insofar as it relates to records concerning the general administration of those functions;

(s) the Labour Relations Commission, insofar as it relates to records concerning—

(i) the provision of conciliation or mediation services by the Commission relating to trade dispute resolution, where parties to the process are participating in a voluntary capacity to try to settle such disputes,

(ii) the provision of the Rights Commissioner Service relating to disputes under the Industrial Relations Acts 1946 to 2012 where parties to the process are participating in a voluntary capacity to try to settle such disputes; and any decisions and recommendations made relating to such disputes,

(iii) the provision of advisory services where it is not of a general or generic nature but is particular to specific parties, or

(iv) meetings of Joint Industrial Councils relating to dispute resolution;

(t) the Labour Court, insofar as it relates to records concerning—

(i) the provision of services by the Labour Court in trade dispute resolution including investigation of disputes and mediation or conciliation services under the Industrial Relations Acts 1946 to 2012, where parties to the process are participating in a voluntary capacity to try to settle such disputes; and any draft decisions in relation to such disputes under

Industrial Relations Acts 1946 to 2012, or

(ii) information provided on a confidential basis by the parties referred to in *subparagraph (i)*;

(u) the Medical Bureau of Road Safety, insofar as it relates to records concerning, or arising from, the forensic criminal investigation functions performed by the Bureau under the Road Traffic Acts 1961 to 2014, including the analysis of specimens and the approval, supply, testing and maintenance of apparatus and of equipment used for the purpose of those Acts;

(v) the Mental Health (Criminal Law) Review Board, insofar as it relates to records relating to its functions under sections 13, 13A, 13B and 17 of the Criminal Law (Insanity) Act 2006;

(w) the National Treasury Management Agency insofar as it relates to records—

(i) relating to or received from a public body specified in *Part 2* of this Schedule that is a commercial entity,

(ii) concerning the performance of its functions under Part 2 of the National Treasury Management Agency (Amendment) Act 2000, other than in relation to records concerning the general administration of those functions, or

(iii) concerning the terms and conditions on which a person holds a position as a member of staff of the Agency, other than when that information is contained in records in summary or collective form such that individuals cannot be identified from the record;

(x) the National Treasury Management Agency, the National Asset Management Agency, the National Pensions Reserve Fund Commission and the National Development Finance Agency, insofar as it relates to records concerning—

(i) investors or potential investors in any security issued by the Minister for Finance or any of these bodies, or in any project, fund or other investment managed or promoted by any of these bodies or in which any of these bodies is an investor,

(ii) companies, firms, funds or any other entities with or in which any of these bodies have invested or could potentially make an investment,

(iii) purchasers or potential purchasers of any asset or loan or of any other asset securing loans held or managed by any of these bodies,

(iv) market counterparties or potential market counterparties of any of these bodies, or

(v) sellers of assets acquired or which may be potentially acquired by any of these bodies or by any company, firm, fund or other entity in which any of these bodies is an investor;

(y) the Garda Síochána Ombudsman Commission, insofar as it relates to records

concerning an examination or investigation carried out by the Garda Síochána Ombudsman Commission under Part 4 of the Garda Síochána Act 2005;

(z) the Ombudsman, insofar as it relates to records concerning an examination or investigation carried out by the Ombudsman under the Ombudsman Acts 1980 to 2012;

(aa) the Ombudsman for Children, insofar as it relates to records concerning an examination or investigation carried out by the Ombudsman for Children under the Ombudsman for Children Act 2002;

(ab) the Ombudsman for Financial Services, insofar as it relates to records concerning an investigation or adjudication carried out by the Financial Services Ombudsman under section 57BK of the Central Bank Act 1942;

(ac) the Legal Services Ombudsman, insofar as it relates to records concerning an investigation carried out by the Legal Services Ombudsman under the Legal Services Ombudsman Act 2009;

(ad) the Ombudsman for Defence Forces, insofar as it relates to records concerning an investigation or examination carried out by the Ombudsman for the Defence Forces under the Ombudsman (Defence Forces) Act 2004;

(ae) the Pensions Ombudsman, insofar as it relates to records concerning an examination or investigation carried out by the Pensions Ombudsman under the Pensions Act 1990;

(af) the Revenue Commissioners, in relation to a record that relates to the formation of an opinion under section 811 of the Taxes Consolidation Act 1997 that a transaction is a tax avoidance transaction, save as regards a record that was created before—

(i) the date on which an officer of the Revenue Commissioners has notified a person that the transaction is the subject of enquiry for the purpose of considering whether to give, in relation to it, a notice under that section 811 of an opinion to the foregoing effect, or

(ii) if it falls earlier than the foregoing date, the date on which a notification under section 811A of that Act was received by the Revenue Commissioners in relation to the transaction;

(ag) the Office of the State Pathologist, insofar as it relates to records in connection with an investigation being undertaken by the Garda Síochána, or other records (not relating to the general administration of the Office) concerning, or arising from, functions performed by the Office under the Coroner's Act 1962;

(ah) the Residential Institutions Redress Board, in the performance of its functions under the Residential Institutions Redress Act 2002, other than insofar as it relates to records concerning the general administration of those functions;

(ai) the Residential Institutions Redress Review Committee, in the performance of its functions under the Residential Institutions Redress Act 2002, other than insofar as it relates to records concerning the general administration of those functions.

Part 2

Exempt Agencies

A board of management established under section 14 of the Education Act 1998, other than a board of management of a school established or maintained by an education and training board

A bridge bank within the meaning of section 17 of the Central Bank and Credit Institutions (Resolution) Act 2011

Allied Irish Banks p.l.c.

An Post

Bord na Móna

Bus Átha Cliath — Dublin Bus

Bus Éireann

Coillte Teoranta

Commissioners for Irish Lights

Córas Iompair Éireann Holding Company

Cork Airport Authority plc.

Drogheda Port Company

Dublin Airport Authority plc.

Dublin Port Company

Dun Laoghaire Harbour Company

Electricity Supply Board

Ervia

Food Safety Promotion Board (Safefood)

Galway Harbour Company

Irish Aviation Authority

Irish Bank Resolution Corporation Limited (in Special Liquidation)

Irish National Petroleum Corporation Limited

The Language Body (An Foras Teanga)

Loughs Agency

National Lottery Company (within the meaning of the National Lottery Act 1986)

National Oil Reserves Agency

New Ross Port Company

permanent tsb Group Holdings p.l.c.

Port of Cork Company

Port of Waterford Company

Private Security Appeals Board

Private Security Authority

Shannon Airport Authority plc.

Shannon Foynes Port Company

Special European Union Programmes Body

Tourism Ireland

Trade and Business Development Body (InterTradeIreland)

Voluntary Health Insurance Board

Waterways Ireland

Wicklow Port Company

SCHEDULE 2

Section 43

THE INFORMATION COMMISSIONER

1. Subject to this Schedule, a person appointed to be the Commissioner shall hold the office for a term of 6 years and may be re-appointed to the office for a second or subsequent term.

2. A person appointed to be the Commissioner—

   (a) may at his or her own request be relieved of office by the President,

   (b) may be removed from office by the President but shall not be removed from office except for stated misbehaviour, incapacity or bankruptcy and then only upon resolutions passed by Dáil Éireann and by Seanad Éireann calling for his or her removal,

   (c) shall in any case vacate the office on attaining the age of 67 years.

3. (1) Where a person who holds the office of Commissioner is—

   (a) nominated as a member of Seanad Éireann,

   (b) elected as a member of either House of the Oireachtas or a local authority or to the European Parliament, or

   (c) regarded, pursuant to section 19 of the European Parliament Elections Act 1997, as having been elected to the European Parliament to fill a vacancy,

   he or she shall thereupon cease to be the Commissioner.

   (2) A person who is for the time being entitled under the standing orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament or a local authority shall, while he or she is so entitled or is such a member, be disqualified for being appointed to be the Commissioner.

4. A person who holds the office of Commissioner shall not hold any other office or employment in respect of which emoluments are payable (other than the office of Ombudsman) or be a member of the Reserve Defence Force.

5. The Commissioner shall be paid, out of moneys provided by the Oireachtas, such remuneration and allowances for expenses as the Minister may from time to time determine.

6. (1) The Minister may make and carry out, in accordance with its terms, a scheme or schemes for the granting of pensions, gratuities or allowances on retirement or death to, or in respect of, persons who have held the office of Commissioner.

   (2) The Minister may at any time make and carry out, in accordance with its terms, a scheme or schemes amending or revoking a scheme under this paragraph.

   (3) A scheme under this paragraph shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly but

without prejudice to the validity of anything previously done thereunder.

7. (1) The Minister may appoint to be members of the staff of the Commissioner such number of persons as the Minister may determine from time to time.

(2) Members of the staff of the Commissioner shall be civil servants in the Civil Service of the State (within the meaning of the Civil Service Regulation Act 1956).

(3) The Minister may delegate to the Commissioner the powers exercisable by him or her under the Public Service Management (Recruitment and Appointments) Act 2004, and the Civil Service Regulation Acts 1956 to 2005, as the appropriate authority in relation to members of the staff of the Commissioner and, if the Minister does so, then, so long as the delegation remains in force—

(a) those powers shall, in lieu of being exercisable by the Minister, be exercisable by the Commissioner, and

(b) the Commissioner shall, in lieu of the Minister, be for the purposes of this Act the appropriate authority in relation to members of the staff of the Commissioner.

8. (1) The Commissioner shall keep, in such form as may be approved of by the Minister, all proper and usual accounts of all moneys received or expended by him or her and all such special accounts (if any) as the Minister may direct.

(2) Accounts kept in pursuance of this paragraph in respect of each year shall be submitted by the Commissioner in the following year on a date not later than a date specified by the Minister to the Comptroller and Auditor General for audit and, as soon as may be after the audit, a copy of those accounts, or of such extracts from those accounts as the Minister may specify, together with the report of the Comptroller and Auditor General on the accounts, shall be presented by the Commissioner to the Minister who shall cause copies of the documents presented to him or her to be laid before each House of the Oireachtas.

9. The Commissioner may delegate to a member of the staff of the Commissioner any of the functions of the Commissioner (other than those under this paragraph or *section 47*) and *subsection (2)* to *(4)* of *section 20* shall, with any necessary modifications, have effect for the purposes of a delegation under this paragraph as they have effect for the purposes of a delegation under that section. References in this Act to the Commissioner shall be construed, where appropriate having regard to any delegation under this paragraph, as including references to any person to whom functions stand delegated by the delegation.

10. *Paragraph 1* shall apply to a person appointed as Commissioner whether before or after the commencement of this Act.

SCHEDULE 3

Sections 35 and *41*

ENACTMENTS EXCLUDED FROM APPLICATION OF *SECTION 41*

Part 1

STATUTES

Number and Year (1)	Short Title (2)	Provision (3)
No. 26 of 1946	Industrial Relations Act 1946	Section 22.
No. 28 of 1947	Health Act 1947	Section 54(3).
No. 1 of 1963	Official Secrets Act 1963	Sections 4, 5 and 9.
No. 14 of 1969	Industrial Relations Act 1969	Section 14.
No. 30 of 1976	Gas Act 1976	Section 20.
No. 5 of 1979	Údarás na Gaeltachta Act 1979	Section 15.
No. 36 of 1980	Irish Film Board Act 1980	Section 18.
No. 24 of 1983	Postal and Telecommunications Services Act 1983	Section 37.
No. 9 of 1986	Industrial Development Act 1986	Sections 42 and 43.
No. 31 of 1986	Transport (Re-organisation of Córas Iompair Éireann) Act 1986	Section 22.
No. 6 of 1987	Air Pollution Act 1987	Section 16(4).
No. 15 of 1987	Labour Services Act 1987	Section 13.
No. 18 of 1988	Agriculture (Research, Training and Advice) Act 1988	Section 14.
No. 26 of 1988	Forestry Act 1988	Section 33.
No. 18 of 1990	National Treasury Management Agency Act 1990	Section 14.
No. 19 of 1990	Industrial Relations Act 1990	Section 25(6).
No. 25 of 1990	Pensions Act 1990	Section 24.
No. 25 of 1990	Pensions Act 1990	Section 145 (inserted by the Pensions (Amendment) Act 2002.
No. 2 of 1991	Marine Institute Act 1991	Section 15.
No. 9 of 1991	Radiological Protection Act 1991	Section 36(1)(d).
No. 7 of 1992	Environmental Protection Agency Act 1992	Section 39.
No. 14 of 1993	Roads Act 1993	Section 38.
No. 19 of 1993	Industrial Development Act 1993	Paragraph 4 of Second Schedule.
No. 29 of 1993	Irish Aviation Authority Act 1993	Section 35.
No. 16 of 1994	Health Insurance Act 1994	Section 34(1).
No. 18 of 1994	Irish Horseracing Industry Act 1994	Section 17.

Number and Year (1)	Short Title (2)	Provision (3)
No. 22 of 1994	An Bord Bia Act 1994	Section 26.
No. 25 of 1994	Milk (Regulation of Supply) Act 1994	Section 16(1).
No. 29 of 1995	Irish Medicines Board Act 1995	Section 23.
No.4 of 1996	Voluntary Health Insurance (Amendment) Act 1996	Section 8.
No. 11 of 1996	Harbours Act 1996	Section 33.
No. 39 of 1997	Taxes Consolidation Act 1997	Section 857.
No. 24 of 1998	Air Navigation and Transport (Amendment) Act 1998	Section 36.
No. 29 of 1998	Food Safety Authority of Ireland Act 1998	Section 43(1).
No. 42 of 1998	Western Development Commission Act 1998	Section 18.
No. 23 of 1999	Electricity Regulation Act 1999	Section 13.
No. 1 of 2000	Comhairle Act 2000	Section 18.
No. 1 of 2001	Aviation Regulation Act 2001	Section 19.
No. 43 of 2001	Ordnance Survey Ireland Act 2001	Section 23.
No. 54 of 2001	Family Support Agency Act 2001	Section 21.
No. 55 of 2001	Transport (Railway Infrastructure) Act 2001	Section 30.
No. 9 of 2002	Housing (Miscellaneous Provisions) Act 2002	Section 13.
No. 10 of 2002	Gas (Interim) (Regulation) Act 2002	Section 19.
No. 20 of 2002	Communications Regulation Act 2002	Section 24.
No. 10 of 2003	National Tourism Development Authority Act 2003	Section 22.
No. 23 of 2003	Digital Hub Development Agency Act 2003	Section 27.
No. 24 of 2003	Arts Act 2003	Section 20.
No. 42 of 2004	Health Act 2004	Section 26.
No. 22 of 2005	Veterinary Practice Act 2005	Section 25.
No. 10 of 2005	Safety, Health and Welfare at Work Act 2005	Section 73.
No. 31 of 2005	Railway Safety Act 2005	Section 21(1).
No. 8 of 2006	Sea-Fisheries and Maritime Jurisdiction Act 2006	Section 58.
No. 14 of 2006	Road Safety Authority Act 2006	Section 26.
No. 17 of 2006	Health (Repayment Scheme) Act 2006	Section 12(4).

Number and Year (1)	Short Title (2)	Provision (3)
No. 19 of 2006	National Sports Campus Development Authority Act 2006	Section 17.
No. 21 of 2006	National Economic and Social Development Office Act 2006	Section 23.
No. 23 of 2007	Health Act 2007	Section 84.
No. 19 of 2007	Consumer Protection Act 2007	Section 32.
No. 7 of 2007	National Oil Reserves Agency Act 2007	Section 24.
No. 15 of 2008	Dublin Transport Authority Act 2008	Section 38.
No. 10 of 2010	Inland Fisheries Act 2010	Section 36.
No. 41 of 2011	Nurses and Midwives Act 2011	Section 17.
No. 28 of 2012	Qualifications and Quality Assurance (Education and Training) Act 2012	Paragraph 13 of Schedule 1.

Part 2

STATUTORY INSTRUMENTS

Number & Year (1)	Title of Instrument (2)	Provision (3)
No. 105 of 1971	Health Services Regulations 1971.	Article 5.
No. 187 of 1971	St. James's Hospital Board (Establishment) Order 1971.	Article 29.
No. 175 of 1983	Fire Services Council (Establishment) Order 1983.	Article 13.
No. 222 of 1983	Housing (Rent Tribunal) Regulations 1983.	Article 14(3).
No. 279 of 1986	The Health Research Board (Establishment) Order 1986.	Article 23.
No. 252 of 1994	The European Communities (Medical Devices) Regulations 1994.	Articles 24(A) and 26(1)(c).
No. 253 of 1994	The European Communities (Active Implantable Medical Devices) Regulations 1994.	Article 20(1)(c).
No. 376 of 1999	The National Council for the Professional Development of Nursing and Midwifery (Establishment) Order 1999.	Article 25.
No. 109 of 2000	The Pre-Hospital Emergency Care Council (Establishment) Order 2000.	Article 35.
No. 304 of 2001	European Communities (In Vitro Diagnostic Medical Devices) Regulations 2001.	Articles 17(4)(c) and 20.

Number & Year (1)	Title of Instrument (2)	Provision (3)
No. 179 of 2004	National Treatment Purchase Fund Board (Establishment) Order 2004.	Article 16.
No. 451 of 2004	National Haemophilia Council (Establishment) Order 2004.	Article 23.

SCHEDULE 4

Section 5

REPEALS

Part 1

STATUTES

Citation (1)	Short title (2)	Extent of repeal (3)
No. 13 of 1997	Freedom of Information Act 1997	The entire Act.
No. 9 of 2003	Freedom of Information (Amendment) Act 2003	The entire Act.
No. 23 of 2004	Commissions of Investigation Act 2004	Section 40.
No. 25 of 2007	Medical Practitioners Act 2007	Section 14(4) and (5) and section 95(3).
No. 23 of 2011	Civil Law (Miscellaneous Provisions) Act 2011	Section 48.
No. 41 of 2011	Nurses and Midwives Act 2011	Section 19(4) and (5) and section 91(3).
No. 44 of 2012	Personal Insolvency Act 2012	Section 22.

Part 2

STATUTORY INSTRUMENTS

Citation (1)	Short title (2)	Extent of repeal (3)
S.I. No. 128 of 2001	Freedom of Information Act 1997 (Prescribed Bodies) (No. 3) Regulations 2001.	The entire instrument.

SCHEDULE 5

Section 54

STATUTORY INSTRUMENTS CONTINUING IN FORCE

Number & Year (1)	Title of Instrument (2)
No. 139 of 1998	Freedom of Information Act 1997 (Section 47(3)) Regulations 1998.
No. 520 of 1998	Freedom of Information Act 1997 (Section 25(6)) Regulations 1998.
No. 46 of 1999	Freedom of Information Act 1997 (Section 6(4)(b)) Regulations 1999.
No. 329 of 1999	Freedom of Information Act 1997 (Prescribed Bodies) Regulations 1999.
No. 115 of 2000	Freedom of Information Act 1997 (Prescribed Bodies) (No. 2) Regulations 2000.
No. 127 of 2001	Freedom of Information Act 1997 (Prescribed Bodies) (No. 2) Regulations 2001.
No. 368 of 2001	Freedom of Information Act 1997 (Classes of Health Professionals) Regulations 2001.
No. 264 of 2003	Freedom of Information Act 1997 (Fees) Regulations 2003.
No. 385 of 2009	Freedom of Information Act 1997 (Section 17(6)) Regulations 2009.
No. 386 of 2009	Freedom of Information Act 1997 (Section 18(5A)) Regulations 2009.
No. 387 of 2009	Freedom of Information Act 1997 (Section 28(6)) Regulations 2009.