



**AN BILLE UM SHAORÁIL FAISNÉISE, 1985**  
**FREEDOM OF INFORMATION BILL, 1985**

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*As initiated*

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(3) In this Act references to a public body include, where appropriate, any committee, sub-committee, commission or other body established by, or in accordance with the provisions of, an enactment of a member of the Government for the purpose of assisting or performing functions connected with a public body, shall not be taken to be a public body for the purposes of this Act but shall be deemed to be comprised within that public body.

(4) In this Act a reference to a section or Schedule is to a Part, section or schedule as the case may be, unless it is indicated that reference to some other enactment is intended.

ACTS REFERRED TO

Moneylenders Act, 1933	1933, No. 36
Official Secrets Act, 1963	1963, No. 1
Petty Sessions (Ireland) Act, 1851	1851, c. 93
National Archives Act, 1985	

Where a draft of the regulations shall be laid before each House of the Oireachtas and the draft has been passed by each such House.

PART I

GENERAL

1.—This Act may be cited as the Freedom of Information Act, 1983.

Right of Access

2.—(1) In this Act, save where the context otherwise requires, standing any contrary provision of or made under any previous enactment, every person shall be taken to be a citizen of the State for the purposes of this Part to an official document or document or part of a document which is held by the Minister or a public body.

3.—(1) "Exempt information" has the meaning assigned to it by section 13 of this Act.

4.—(1) "Public body" means a body which is wholly or partly financed wholly or partly by grants or loans made by a member of the Government or by the issue of shares taken up by a member of the Government; and any other body in a miscellaneous manner mainly in public affairs in either an administrative, advisory or executive capacity.

5.—(1) Nothing in this Act shall prevent a public body or a body established by or under statute and financed wholly or partly by grants or loans made by a member of the Government or by the issue of shares taken up by a member of the Government from continuing to exercise its functions in relation to the affairs of the State.



AN BILLE UM SHAORÁIL FAISNÉISE, 1985  
FREEDOM OF INFORMATION BILL, 1985

# BILL

entitled

AN ACT TO PROVIDE A GENERAL RIGHT OF ACCESS TO OFFICIAL INFORMATION FOR MEMBERS OF THE PUBLIC SUBJECT TO CERTAIN EXEMPTIONS; TO PROVIDE SAFEGUARDS FOR THE PRIVACY OF PERSONAL INFORMATION COLLECTED AND RETAINED FOR OFFICIAL PURPOSES; TO REPEAL CERTAIN PROVISIONS OF THE OFFICIAL SECRETS ACT, 1963; AND TO PROVIDE FOR CONNECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

## PART I

### GENERAL

Short title.

1.—This Act may be cited as the Freedom of Information Act, 1985.

Interpretation.  
generally.

2.—(1) In this Act, save where the context otherwise requires—  
the “Court” means the District Court;

the “Minister” means the Minister for the Public Service;

“exempt information” has the meaning assigned to it by *section 13* of this Act;

“official document” means a document in the possession of any public body to which this Act applies, whether or not originating in that body, but does not include members of the Government or Ministers of States’ correspondence dealing with constituency or party political matters;

“public body” means—

a Department of State or any body under its aegis;

a public service organisation including a local authority, a health board or a body established by or under statute and financed wholly or partly by grants or loans made by a member of the

Government or by the issue of shares taken up by a member of the Government; and

any other body involved wholly or mainly in public affairs in either an administrative, advisory or executive capacity.

5 (2) In this Act references to a public body include, where appropriate, references to a court and the definition of "official documents" and "personal records" shall be construed accordingly;

10 (3) An unincorporated body, being a board, council, committee, subcommittee or subsidiary or other *ad hoc* body established by, or in accordance with the provisions of, an enactment or by a member of the Government for the purpose of assisting, or performing functions connected with a public body, shall not be taken to be a public body for the purposes of this Act, but shall be deemed to be comprised within that public body.

15 (4) In this Act a reference to a Part, section or Schedule is to a Part, section or schedule of this Act, unless it is indicated that reference to some other enactment is intended.

20 (5) In this Act a reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

20 (6) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended or adapted by or under any subsequent enactment.

25 3.—Where regulations under this Act are proposed to be made, a draft of the regulations shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving the draft has been passed by each such House.

Regulations.

## PART II

### ACCESS TO OFFICIAL DOCUMENTS

#### *Right of Access*

30 4.—Subject to the following provisions of this Part and notwithstanding any contrary provision of or made under any previous enactment, every person shall be entitled to obtain access in accordance with this Part to an official document other than a document or part thereof containing exempt information.

Right of access to official documents.

35 5.—A person is not entitled to obtain access under section 4—

Exclusion of certain documents from section 4.

(a) to a document that is available to the public, as part of a public register or otherwise, in accordance with another enactment;

40 (b) to a document that is available for purchase by the public in accordance with arrangements made by or on behalf of a public body to which this Act applies.

6.—Nothing in this Act shall prevent or discourage public bodies from publishing or giving access to documents (including documents

Access to documents apart from this Act.

containing exempt information) otherwise than as required by this Act, where they can properly do so or are required by law to do so.

Application for access.

7.—(1) A person who wishes to obtain an official document under this Act may make an application under this section to the public body by which the document is held. 5

(2) An application under this section shall be in such form and shall contain such information relating to the document (being information such as is reasonably necessary to enable the document to be identified by the public body to whom the application is addressed) as may be prescribed by the applicable Code of Guidance issued under section 19. 10

(3) Where an application is made to a public body for access to an official document and the document is not held by that body but is held by another public body or the subject matter of the document is more closely connected with the functions of another public body, the public body to which the request is initially sent may within four days of the receipt thereof transfer the application to the other public body and inform the person making the application accordingly. 15

(4) Where an application is so transferred to a public body, it shall be deemed to be a request made to that public body and to be first received at the time at which that body received it: provided that no further extension of the periods specified under section 9 shall apply in a case where an application is further transferred to another public body or returned to that body to which the application was first made. 20

Applications involving use of computers, etc.

8.—Where— 25

(a) an application is duly made to a public body; and

(b) it appears from the application that the desire of the applicant is for information that is not available in discrete form in official documents of the public body; and

(c) the public body could produce a written document containing the information in discrete form by— 30

(i) the use of a computer or other equipment that is ordinarily available to the body for retrieving, collating or storing information; or 30

(ii) the making of a transcript from a sound recording held in the body; 35

the public body shall deal with the request as if it were an application for access to a written document so produced and containing that information and, for that purpose, this Act shall apply as if the public body had such a document in its possession. 40

Giving of access.

9.—(1) Subject to sections 7 (4) and 16 upon receiving an application for access to an official document, the public body shall take all reasonable steps to notify the applicant of a decision on the request not later than five days after such receipt; and where the public body fails to notify the applicant of such a decision, the public body shall be treated as having refused the application. 45

(2) Subject to sections 7 (4), 16 and 24 (e), where an application is duly made by an applicant to a public body for access to an official 30

document, the applicant shall be given access to the document within fourteen days on which the application was received provided that no public body shall be required under this Act to give access to a document at a time when the document contains exempt information.

5 (3) The giving of access under this section shall include the right to inspect, and to be provided with copies of the said document subject to such reasonable charges for copying as may be specified under *section 20*.

10 (4) A public body which has received an application for access under *section 7* to an official document in its possession shall preserve that document until such time as the application is finally determined by the Court, if necessary, or otherwise in accordance with the provisions of this Act.

15 **10.—**(1) Where a decision is made to refuse access to an official document on the grounds that it contains exempt information, then the public body concerned shall take all reasonable steps to grant access to a copy of the document with the exempt information deleted.

Access to exempt information in certain cases.

Deletion of exempt information.

(2) When access is granted to a copy of a document in accordance with *subsection (1)*—

20 (a) the applicant shall be informed of the provisions of this Act by virtue of which any information deleted is exempt information; and

(b) inform the applicant of the review procedure in Court under *section 21*.

Notification of parties concerned.

25 **11.—**(1) Where a decision is taken by a public body to refuse access to an official document, the public body concerned shall give the applicant notice in writing of the decision and the notice shall—

Reasons for refusal to be given.

(a) state the reasons for the decision; and

30 (b) inform the applicant of the review procedure in Court under *section 21*.

(2) A public body shall not be required to include in a notice under *subsection (1)* any exempt information.

35 **12.—**A public body may refuse access to any official document in so far as it contains exempt information.

Refusal of access.

40 **13.—**In this Act “exempt information” means—

Exempt information.

(a) information the disclosure of which would seriously impair—

(i) the defence or security of the State; or

(ii) relations between the Government and any other government or any international organisation of states or governments in the conduct of foreign affairs;

(b) information relating to law enforcement or the investigation of crime, but only to the extent that the disclosure of such information would—

Information not exempt.

Disclosure of documents.

- (i) endanger the life or safety of any person, or be helpful in the commission of offences or in aiding escapes from any prison, or be likely to impede the prevention of crime or the detection of offences or the apprehension of or prosecution of offenders; 5
- (ii) interfere with court proceedings; 3
- (iii) deprive a person of a right to a fair trial; 2
- (iv) constitute an unwarranted invasion of personal privacy; 10
- (v) disclose the identity of a confidential source and in the case of information compiled by the Garda Síochána in the course of a criminal investigation or in conducting a lawful investigation for purposes of national security, disclose confidential information furnished by a confidential source; 15
- (vi) disclose investigative techniques and procedures of the Garda Síochána; 15
- (c) information in respect of which a claim to legal professional privilege could be maintained in legal proceedings; 20
- (d) financial, commercial, scientific or technical information— 20
  - (i) required to be supplied to a public body or supplied in confidence to a public body, the disclosure of which would give an unfair advantage to competitors of the party concerned; or 25
  - (ii) obtained in confidence by a public body without statutory powers so to do, and not in return for the grant of any benefit or permission, the disclosure of which would impair the ability of that body or other public bodies to obtain similar information in the future; 25
- (e) information the unwarranted disclosure of which would amount to an invasion of the privacy of any living individual apart from the applicant or the disclosure of a personal record within the meaning of *Part III*; 30
- (f) information the disclosure of which would disclose information in the nature of, or relating to, opinion or advice or recommendation tendered by any person in the course of his official duties for the purpose of the formation of policy within a public body to which this Act applies; 35
- (g) information relating to minutes and proceedings concerning Cabinet meetings of members of the Government. 40

Information not exempt.

14.—(1) Information shall not be regarded as falling within *section 13 (a) (ii)* by reason only that it concerns the relations between the State and the European Communities or any acts or proceedings taking place within the organs of the European Communities (other than the European Council) or relating to Community affairs, except where such activities relate to the international relations of the European Communities themselves. 45

(2) Information shall not be regarded as falling within *section 13*



(f) by reason only of purely factual content, nor if it is in the form of any expert opinion on scientific or technical issues or on the analysis, interpretation or evaluation of information, nor if it is in the form of a report prepared for the purposes of a public body by any organisation established for the purpose of making such a report.

(3) Information shall not be regarded as falling within *section 13* with the exception of *paragraph (e)* for the purposes of disclosure of or giving of such information to the Houses of the Oireachtas or committees thereof.

15 15.—(1) A public body shall grant access to official documents containing exempt information under *section 13 (d)* where disclosure would be in the public interest on grounds including but not limited to, the protection of public health, public safety or the environment and if such public interest clearly outweighs in importance any prejudice to the competitive position of the party whom the information concerns.

Access to exempt information in certain cases.

20 (2) A public body shall grant access to official documents containing exempt information under *section 13 (e)* where the public interest in disclosure clearly outweighs any invasion of privacy that may result from disclosure: provided that such access shall not include the disclosure of a personal record within the meaning of *Part III*.

25 16.—(1) Where a public body intends to grant access to any official document under *section 15* which may be exempt under *section 13 (d)* or *(e)*, then the public body shall give notice to the party from whom the information was obtained (in the case of *section 13 (d)*), or the person whom the information concerns (in the case of *section 13 (e)*) of at least twenty days before granting access to the document.

Notification of parties concerned.

30 (2) Any party or person to whom a notice is required to be given under *subsection (1)* may waive the requirement and where the granting of access has been consented to the requirement shall be deemed to have been waived.

(3) A notice given under *subsection (1)* shall include—

35 (a) a statement that the public body intends to grant access to a document containing information of the kind described in *section 13 (d)* or *(e)*; and

Right of person to apply for review.

(b) a description of the information supplied by or relating to the party or person to whom notice is given; and

40 (c) notification that the party or person may within fifteen days after the notice is given make written representations to the public body as to why access to the document should not be granted.

Notification of parties concerned.

(4) Within twenty days after notice under *subsection (1)* the public body shall decide whether or not to grant access to the document and shall give written notice to the party or person concerned.

45 (5) A notice of a decision to grant access under *subsection (4)* shall include notification that access will be granted unless within seven days notice of an application for review in Court is requested under *section 21*.

17.—(1) Where any official document to which access has been

Correction of documents.

granted under this Part contains incomplete, incorrect, out of date or misleading information relating to the person who applied for access to that document, that person shall be entitled upon application to the public body which granted access to that document to have such information expunged from that document or corrected or supplemented by that public body. 5

(2) Where a public body has expunged, corrected or supplemented such information as is referred to in *subsection (1)* the public body shall notify all those to whom the relevant information has been communicated of the changes made. 10

(3) Where a public body refuses or neglects to expunge, correct or supplement such information, the person concerned may prepare a concise statement of his views of the matter in question and this statement shall be attached to the document and sent by the said body to all parties concerned. 15

(4) It shall be an offence under this Act for a public body to fail to comply with this section.

*Publication of certain documents, etc.*

Certain documents to be available for inspection and purchase.

**18.—(1)** This section applies to official documents that are used by a public body in making decisions or recommendations under or for the purposes of an enactment or scheme administered by the public body, with respect to rights, privileges and benefits, or to obligations, penalties or other detriments to or for which persons are or may be entitled or subject, being— 20

(a) manuals or other documents containing interpretations, rules, guidelines, practices or precedents; or 25

(b) documents containing particulars of such a scheme, not being particulars contained in any enactment as published apart from this Act, but not including documents that are available to the public as published otherwise than by the public body. 30

(2) A public body shall—

(a) cause copies of all documents to which this section applies in respect of that body that are in use to be made available for inspection and for purchase by members of the public; 35

(b) not later than twelve months after the coming into force of this section cause to be published a statement (which may take the form of an index) specifying the documents of which copies are, at the time of preparation of the statement, so available and the place or places where copies may be inspected and may be copied or purchased; and 40

(c) after the publication of the statement under *paragraph (b)* cause to be published statements bringing up to date the information contained in the previous statement or statements every three months. 45

(3) This section does not require a document of the kind referred to in *subsection (1)* which contains exempt information to be made available in accordance with *subsection (2)*, but, such a document is not made so available, the public body shall, if practicable, cause to be prepared a corresponding document, altered only to the extent necessary to exclude the exempt matter, and cause the document so prepared to be dealt with in accordance with *subsection (2)*. 50

(4) Subsections (2) and (3) shall apply in relation to a public body that comes into existence after the coming into force of this section as if the references in those subsections to the coming into force of this section were references to the day on which the public body comes into existence.

19.—(1) the Minister shall cause each public body to which this Act applies to maintain indexes of all the official documents held by it, or such other system of identification as may be necessary for members of the public wishing to obtain access to documents held by it and shall publish a code of guidance thereto.

(2) Without prejudice to the generality of subsection (1), each code shall in particular—

(a) provide a guide to the arrangement of the documents to which it relates and make provision for the inspection of catalogues and indexes maintained by public bodies;

(b) prescribe the manner in which applications to the public body concerned are to be made under this Act;

(c) make provision for the inspection and copying of the documents to which it relates by members of the public during normal office hours;

(d) give notice of the right to correct documents under section 17; and

(e) contain a statement of the fees payable by members of the public in pursuance of section 20.

20.—The Minister may by regulation, with the concurrence of the Minister for Finance, charge such fees to members of the public availing themselves of the facilities provided under this Part, which shall not exceed the direct costs of copying any document.

#### Review by Court

21.—(1) Any person who is refused access to an official document or part thereof by a public body under this Part may at any time appeal such refusal by way of an application to the Court to review the matter within thirty days of the application being made.

(2) The clerk to the Court to which the application under subsection (1) is made shall inform the public body or bodies as the case may be, of such application not later than five days after its receipt.

22.—(1) A public body that has refused access to an official document requested under this Act shall forthwith, on being given notice of any application made under section 21 give written notice of the application to any party or person that body has notified under section 16 in respect of the request or should have notified under that section if the body had intended to grant access to the document.

(2) Any party given notice of an application for review under subsection (1) may appear as a party to the review.

23.—(1) Any party to whom a public body is required under section

16 or section 22 to give notice of a decision to grant access to an official document under this Act may, within seven days after such notice is given, apply to the Court for a review of the matter.

(2) The public body that has given notice under section 16 or section 22 that a document requested under this Act will be disclosed shall forthwith, on being given notice of an application for review made under subsection (1) in respect of the disclosure, give written notice of the application for review to the person who requested access to the document. 5

(3) Any person who has been given notice of an application for review under subsection (2) may appear as a party to the review. 10

Proceedings before Court.

24.—In any proceedings before the Court arising from an application for review under sections 21 and 23 the following provisions shall apply—

(a) notwithstanding anything to the contrary contained in any Act the Court may examine any official document to which this Act applies that is under the control of a public body and no such document may be withheld from the Court on any grounds; 15

(b) the proceedings may be held *in camera* if the application for review involves exempt information; 20

(c) the Court shall take every reasonable precaution, including when appropriate receiving representations *ex parte* and conducting hearings *in camera* to avoid the disclosure by the Court or any person of any exempt information; 25

(d) the burden of establishing that refusal of access to a document requested is justified under this Act shall be on the public body concerned except where—

(i) the information is information for which an exemption under section 13 (d) (i) is claimed, when the burden of proof shall be on the party from whom the information was obtained; or 30

(ii) the information is information for which an exemption under section 13 (e) is claimed, when the burden of proof shall be on the applicant; 35

(e) the Court may grant to the public body which is the subject of the application a specified extension to the period specified in section 9 for producing the document where that body satisfies the Court that compliance with the application would interfere unreasonably with the business of the public body concerned having regard to any difficulty that would exist in identifying, locating or collating documents containing relevant information within the filing system of the public body and other public bodies with which the subject matter may also be closely connected. 40 45

Orders to grant access.

25.—(1) In determining an application under section 24 the Court shall make an order either granting access to the applicant of the documents concerned or parts thereof or refusing such access and such order shall be binding on all parties concerned unless varied by a subsequent order of the Court. 50

(2) In making an order under *subsection (1)* the Court may attach such conditions as it sees fit.

26.—(1) Subject to *subsection (2)*, the costs of, and incidental to, all proceedings in the Court under this Act shall be at the discretion of the Court and shall be borne by each of the parties making representations to the Court unless the Court orders otherwise. Costs.

(2) Where the Court is of the opinion that an application for review under *sections 21* and *23* has raised an important issue of principle in the public interest under this Act the Court shall order that costs be awarded by the public body concerned to the person making the original request for access to the documents whether or not such application has been sustained before the Court.

27.—(1) Where access has been given to an official document and— Protection against actions for defamation, etc.

- (a) the access was required by this Act to be given; or
- (b) the access was authorised in good faith in the belief that the access was required by this Act to be given, no action for defamation or breach of confidence shall lie by reason of the authorising or giving of access.

(2) The giving of access to an official document (including documents containing exempt information) in consequence of an application under this Act shall not be taken, for the purposes of the law relating to defamation or breach of confidence, to constitute an authorisation or approval of the publication of the document or of its contents by the person to whom access was given.

28.—Where access has been given to an official document and— Protection in report of offences.

- (a) the access required by this Act to be given was given; or
- (b) the access was authorised in good faith in the belief that the access was required by this Act to be given,

neither the person authorising the access nor any person concerned in the giving of the access shall be guilty of an offence by reason only of the authorising or giving of that access.

### PART III

#### PERSONAL PRIVACY

29.—(1) In this Part, save where the context otherwise requires— Interpretation (Part III).

“company” means any registered company within the meaning of the Companies Acts, 1963 to 1985;

“financial institution” means any bank, building society, company, credit union, or institution established for the purpose of lending, investing and depositing of money and includes a licensed money-lender within the meaning of the Moneylenders Act, 1933;

“maintain” includes maintain, collect, compile, use or disseminate;

“organisation” includes a public body, company or financial institution to which this Part applies;

“personal record” means any item, collection or grouping of information relating to an individual person whether recorded electronically or otherwise which is maintained by a public body, company or financial institution to which this Part applies; 5

“system of records” means a group of any personal records under the control of any public body, company or financial institution from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and 10

“statistical record” means a personal record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual. 15

(2) In this Part a person to whom the personal record relates shall include, if that person is deceased or incapacitated, his next-of-kin or legal representative.

Maintenance of personal records.

**30.**—(1) No public body, company or financial institution shall maintain records of personal information on individuals, save where the information is in the form of personal records specified in this section and in accordance with this Part. 20

(2) A personal record shall comprise only of the following: the person’s name, or the identifying number, reference, symbol, or other identifying particular assigned to the person concerned: and in the case of— 25

(a) a public body, shall relate only to matters within its statutory duties and responsibilities;

(b) a financial institution, shall relate only to the character, physical or mental health of its client; 30

(c) a company shall relate only to the professional competence or physical or mental health of its employees.

(3) In this section “client” means a borrower, depositor or investor with the financial institution concerned or such other relationship where money or goods exchange hands. 35

(4) Nothing in this section shall prohibit a public body or financial institution from maintaining personal records on its employees to the extent specified in *subsection (2) (c)*.

Disclosure of personal records in certain circumstances.

**31.**—No public body, company or financial institution shall disclose any personal record which is contained in a system of records by any means of communication to any person, or to another organisation or some other agency, except pursuant to a written request by, or with the prior written consent of, the person to whom the record relates, unless disclosure of the record would be— 40

(a) to those officers and employees of the organisation concerned which maintains the record who have a need for the record in the performance of their duties; 45

(b) to another public body or bodies where the purpose for which

the personal record is maintained is closely connected or common to those public bodies who have a need for the record in the performance of their duties;

- 5 (c) to the Central Statistics Office for purposes of planning or carrying out a census or survey or related activity;
- (d) to a recipient who has provided the said organisation with advance adequate written assurance that the record will be used solely as a statistical record, and the record is to be transferred in a form that is not individually identifiable;
- 10 (e) to the National Archives as a personal record which has sufficient historical or other value to warrant its continued preservation under the *National Archives Act, 1985*;
- (f) to the Garda Síochána for the purposes of national security, law enforcement or the investigation of crime;
- 15 (g) to either House of the Oireachtas or, to the extent of matter within its jurisdiction, any committee thereof;
- (h) to the Comptroller and Auditor General or the Chairman of the Revenue Commissioners or any of their respective authorized representatives, in the course of the performance of their duties;
- 20 (i) pursuant to the order of a court of competent jurisdiction; or where the disclosure of personal information relates to a person's character and financial standing and such information has been the subject of legal proceedings upon which the Court has found against such person.
- 25

32.—Each public body, company or financial institution with respect of each system of records maintained under its control, shall— Record of certain disclosures made under section 31.

- (a) keep an accurate record accounting of (except for disclosures made under *section 31 (a)*)—
- 30 (i) the date, nature, and purpose of each disclosure of a personal record to any person or to another organisation made under *section 31*; and
- (ii) the name and address of the person or organisation to whom the disclosure is made;
- 35 (b) retain the record of accounting made under *paragraph (a)* for at least five years or the life of the record whichever is longer, after the disclosure for which the accounting is made;
- (c) except for disclosures made under *section 31 (f)* make the record of accounting made under *paragraph (a)* available to the individual named in the record at his request; and
- 40 (d) inform any person or other organisation about any correction or amendment of any personal record or notation of dispute made in accordance with *section 36* that has been disclosed to that person or organisation.
- 45

33.—Each public body, company or financial institution who maintains a system of records shall inform each person to whom the record Requirement to inform of personal record.

relates of the existence of that record in each case and any identifying reference or references attached thereto.

Authority to compile personal records.

34.—A public body, company or financial institution when compiling information for inclusion in a personal record, shall inform any person, or organisation or other agency from whom it requests information— 5

(a) of the statutory authority enabling it to require the information in question;

(b) whether the provision of such information is mandatory or voluntary; 10

(c) of the purpose for which the information is to be used, by whom it is to be used and of the extent to which it may be disclosed under the provisions of this Act;

and a list of the persons, organisations or agencies so requested shall be attached to and form part of a personal record for the purposes of this Part. 15

Access to personal records.

35.—(1) With the exception of personal records concerned with matters referred to in *section 31 (f)* each public body, company or financial institution that maintains a system of records shall grant to any person access to his own personal record and any information relating to him which may be contained in the system within ten days of being so requested in writing by such person. 20

(2) The giving of access to a personal record under this section shall include the right to inspect, and to be provided with copies of the said record free of charge. 25

Amendment of personal record.

36.—(1) Where a person has been granted access to his personal record under *section 35* he shall have the right to request from the public body, company or financial institution concerned that the record be corrected, supplemented or expunged in whole or in part. 30

(2) Where a request from a person under *subsection (1)* for an amendment to his personal record has been made it shall be acknowledged within fourteen days of receipt by the public body, company or financial institution concerned and such organisation shall within a further period of one month either—

(a) make the amendment requested, 35

(b) destroy the personal record,

(c) inform that person of any decision to refuse his request in whole or in part, or

(d) propose to that person the retention of his personal record in an alternative form. 40

(3) Where either *paragraph (c)* or *(d)* of *subsection (2)* is invoked, the person concerned shall be informed of the reason for not acceding to the request and the right of such person to appeal within thirty days against such a decision or proposal to the head of the public body, company or financial institution concerned. 45

(4) For the purposes of this section the head of the organisation concerned shall be as follows:



- (i) in the case of a public body, the member of the Government in charge of or under whose general aegis the body lies,
- 5 (ii) in the case of a financial institution or company, the chairperson of the Board of Directors.

(5) An appeal under *subsection (3)* shall be determined within sixty days of its receipt and the decision thereof shall be given to the appellant in writing.

10 (6) An appeal under this section shall not prejudice a person's right of appeal to a court of law.

15 (7) Where a decision of an appeal under this section refuses a request for an amendment of personal record, the person to whom the record relates may send to the public body, company or financial institution concerned a concise statement setting forth the reasons for the amendment and such statement shall be attached to and form part of the personal record for the purposes of this Part.

20 37.—(1) Each public body, company or financial institution which maintains a system of records shall publish a notice of the existence and character of its system of records in at least one daily newspaper circulating in its area of operation and such notice shall further specify that a written explanatory statement on the system, in the form specified under *subsection (2)* may be obtained on request.

Publication of notice of system of records.

(2) The explanatory statement referred to in *subsection (1)* shall include—

- 25 (a) the name and location of the system of records;
- (b) the categories of persons on whom personal records are maintained in the system;
- (c) the categories of personal records maintained in the system;
- 30 (d) each routine use of the personal records contained in the system; including the categories of users and the purpose of such use;
- (e) the policies and practices of the organisation concerned regarding storage, retrievability, access controls, retention, and disposal of personal records;
- 35 (f) the title and business address of the official in the organisation who is responsible for the system of records;
- (g) the procedures of the organisation whereby an individual can be notified at his request how he can gain access to any personal record pertaining to him contained in the system of records, and how he can contest its content; and
- 40 (h) the categories of sources of personal records in the system.

(3) A notice and explanatory statement under this section shall be sent by the organisation concerned to the Minister to be included in the annual report next prepared by him under *section 41*.

45 38.—Failure by a public body, company or financial institution to Offences.

comply with the provisions of this Part shall be an offence under this Act.

## PART IV

### MISCELLANEOUS

Repeal of sections 4 and 6 of the Official Secrets Act, 1963.

39.—Section 4 (Disclosure of official information) and 6 (Retention of documents and articles) of the Official Secrets Act, 1963 are hereby repealed.

Offences and penalties.

40.—(1) Any person who contravenes (by act or omission) any requirement of this Act or of any regulation under this Act or of any notice to which this Act applies shall be guilty of an offence. 10

(2) A person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding £1,000 or, at the discretion of the Court, to imprisonment for a term not exceeding two years or to both the fine and the imprisonment, together with, where the said offence is continued beyond one week after conviction a further fine not exceeding £100 for each day on which the offence is so continued. 15

(3) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted—

(a) in every case, within two years from the date of the offence, 20  
and

(b) if at an expiry of that period, the person to be charged is outside the State, within six months of the date on which he enters the State.

(4) Where an offence under this Act is committed by a public body, 25 company or financial institution and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, public servant or other similar officer of such organisation or any person who was purporting to act in any such capacity, he, as well as the 30 organisation concerned, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Annual report by Minister.

41.—(1) The Minister shall, before the 1st day of March every year, prepare a report on the operation of this Act during that year and cause a copy of the report to be laid before each House of the 35 Oireachtas.

(2) Each public body shall, in relation to that body furnish to the Minister such information as he requires for the purposes of the preparation of reports under this section and shall comply with any requirements prescribed by regulations made under this Act concern- 40 ing the furnishing of that information and the keeping of records for the purposes of this section.

(3) Without prejudice to the generality of *subsection (1)* or the kinds of information which a public body might be required, in pursuance of *subsection (2)*, to furnish, a report of the Minister shall 45 set out—

(a) particulars of the operations of each public body under this Act during the year to which the report relates, including, in relation to each body—



- (i) the number of applications under *section 7* for access to documents received during the year;
- 5 (ii) the number of decisions made during the year refusing to grant access to documents in relation to which requests have at any time been received;
- (iii) the number of applications made during the year to the Court for the review of decisions and particulars of the results of such reviews;
- 10 (iv) particulars of the total charges collected under *section 20* during the year in dealing with requests, whenever received;
- (v) particulars of changes in administrative procedures occasioned by the need to comply with the obligations imposed by this Act;
- 15 (b) an identification of the guidelines, if any, issued during the year to which the report relates by the Minister;
- (c) a description of any efforts by the public bodies to comply with their obligations under this Act;
- 20 (d) notices and explanatory statements on systems of records under *section 37*.

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*An Seanadóir Breandán Ó Riain a thug isteach agus na Seanadóirí Seán de Rossa agus Cairíona Mac Aonghusa ag cuidiú leis.*

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*Ordaíodh ag Seanad Éireann a chlóbhualadh,  
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An Act to provide a general right of access to official information for members of the public subject to certain exemptions; to provide safeguards for the privacy of personal information collected and retained for official purposes; to repeal certain provisions of the Official Secrets Act, 1963; and to provide for connected matters.

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*Introduced by Senator Brendan Ryan supported by Senators Shane P. N. Ross and Catherine McGuinness.*

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