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AN BILLE UM ATHCHÓIRIÚ RÚN OIFIGIÚIL, 2000
OFFICIAL SECRETS REFORM BILL, 2000

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

Section

1. Restriction of secrecy requirement for official information.
 2. Defence of public interest for disclosure of official information.
 3. Restriction of other statutory secrecy requirements.
 4. Defence of public interest in relation to other secrecy requirements.
 5. Regulations.
 6. Interpretation.
 7. Short title, collective citation and construction.
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Acts Referred to

Freedom of Information Act, 1997

1997, No. 13

Official Secrets Act, 1963

1963, No. 1



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OFFICIAL SECRETS REFORM BILL, 2000

BILL

entitled

5 AN ACT TO AMEND THE OFFICIAL SECRETS ACT, 1963, TO
REFORM THE LAW REGARDING OFFICIAL SECRECY
GENERALLY AND TO PROVIDE FOR RELATED
MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

10 **1.**—(1) Section 1 of the Principal Act is hereby amended by the
addition of the following proviso to the definition of “official
information”—

Restriction of
secrecy requirement
for official
information.

“Provided that and only to the extent that such information con-
sists of one or more of the following—

15 (a) information relating to the security of the State and speci-
fied in section 9 or relating to the policy, activities and
international relations of the State in connection with
Northern Ireland or related matters;

20 (b) information the disclosure of which is likely to result in the
commission of an offence or impede the prevention or
detection of offences or the apprehension, prosecution or
maintenance in custody of offenders or suspected
offenders; or

25 (c) information the disclosure of which is likely to endanger the
life or safety of any person.”.

2.—The Principal Act is hereby amended by the insertion of the
following section after section 4—

Defence of public
interest for
disclosure of official
information.

30 “Public interest
defence to criminal
proceedings.

4A.—It shall be a defence to any criminal pro-
ceedings under this Act to show that the disclos-
ure in question was in the opinion of the court
justified in the public interest.”.

3.—Each statutory provision specified in the Third Schedule to
the Freedom of Information Act, 1997, shall cease to operate as a
restriction on disclosure of information, except and only to the extent
35 that such information consists of one or more of the following—

Restriction of other
statutory secrecy
requirements.

- (a) information relating to the security of the State or relating to the policy, activities and international relations of the State in connection with Northern Ireland or related matters;
- (b) information the disclosure of which is likely to result in the commission of an offence or impede the prevention or detection of offences or the apprehension, prosecution or maintenance in custody of offenders or suspected offenders; 5
- (c) information the disclosure of which is likely to endanger the life or safety of any person. 10

Defence of public interest in relation to other secrecy requirements.

4.—It shall be a defence to—

- (a) any criminal proceedings under a statutory provision specified in the Third Schedule to the Freedom of Information Act, 1997, 15
- (b) any other criminal proceedings relating to disclosure of information, whether or not official information within the meaning of the Principal Act, or
- (c) any civil proceedings relating to the disclosure of information, whether or not official information within the meaning of the Principal Act, 20

to show that the disclosure in question was in the opinion of the court justified in the public interest.

Regulations.

5.—(1) The Minister for Finance may make regulations for the purpose of giving effect to this Act. 25

(2) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder. 30

(3) Any regulation made under *subsection (1)* may contain such consequential, supplementary and ancillary provisions as the Minister for Finance considers necessary or expedient.

Interpretation.

6.—(1) In this Act— 35

“court” includes jury, in the case of proceedings heard with a jury; and

“Principal Act” means the Official Secrets Act, 1963.

(2) In this Act—

- (a) a reference to a subsection is a reference to the subsection of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended; 40

(b) a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.

5 7.—(1) This Act may be cited as the Official Secrets Reform Act, 2000. Short title, collective citation and construction.

(2) The Principal Act and this Act may be cited together as the Official Secrets Acts, 1963 and 2000 and shall be construed together as one Act.



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EXPLANATORY MEMORANDUM

Purpose of the Bill

1. The Official Secrets Act, 1963, (the “Act of 1963”) is a sweeping measure which makes unauthorised disclosure of all official data an offence, however innocuous the data might be.

2. The Act of 1963 entirely fails to distinguish between sensitive information, e.g. in relation to security matters and other information.

3. The purpose of the Bill is to limit the scope of the Act of 1963, in line with the ethos of the Freedom of Information Act, 1997. The main effects of the Bill are as follows—

- The Act of 1963 will cease to apply to official information generally. It will be confined to information which relates to defence, security, Northern Ireland and personal safety matters.
- A new public interest defence will be introduced.
- Disclosure of any other information will cease to be an offence under that Act.
- A wide range of other statutory and non-statutory rules which restrict information will be subject to the same liberalisation.

4. The Bill draws upon some of the recommendations of the Report of the former Select Committee on Legislation and Security of January, 1997. However, the Bill goes considerably further than the Report by restricting a wide range of legislation other than the Act of 1963, and by providing for defences for civil proceedings.

Provisions of Bill

Section 1 limits the scope of the Act of 1963 to defined categories of information, primarily security related information, rather than official information generally.

Section 2 introduces a public interest defence in proceedings under the Act of 1963.

Section 3 limits a wide range of statutory provisions which restrict disclosure. By and large these relate to statutory agencies. The provisions are those listed in the Third Schedule to the Freedom of Information Act, 1997.

Section 4 provides a public interest defence for these provisions and for other civil and criminal proceedings.

Section 5 provides for regulations.

Section 6 provides definitions.

Section 7 is a standard provision for the short title and related matters.

*An Teachta Derek McDowell,
Feabhra, 2000.*