



SEANAD ÉIREANN

**AN BILLE UM SHAORÁIL FAISNÉISE, 2013
FREEDOM OF INFORMATION BILL 2013**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

AN BILLE UM SHAORÁIL FAISNÉISE, 2013 —AN COISTE

FREEDOM OF INFORMATION BILL 2013 —COMMITTEE STAGE

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

SECTION 2

1. In page 10, line 33, to delete “21 April 2008” and substitute “1 January 2007”.

—*Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

2. In page 11, line 15, to delete “or a prescribed body”.

—*Senator Sean D. Barrett.*

3. In page 14, to delete lines 1 to 3.

—*Senator Sean D. Barrett.*

4. In page 14, between lines 16 and 17, to insert the following:

“(e) any correspondence electronic or otherwise even if such correspondence is not carried out on the official networks of the public body.”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

5. In page 14, line 24, to delete “who” and substitute “or company (within the meaning of the Companies Acts) which”.

—*Senator Feargal Quinn.*

6. In page 15, between lines 2 and 3, to insert the following:

“(6) The interpretation of “personal information” in this section shall not be construed so as to impede or otherwise restrict public access to the records held by the General Register Office in accordance with section 61 of the Civil Registration Act 2004 or in accordance with the Civil Registrations Acts 2004 to 2012.”.

—*Senator Feargal Quinn.*

SECTION 3

7. In page 15, to delete lines 13 to 18 and substitute the following:

“(3) Every order or regulation under this Act shall be brought before each House of the Oireachtas for approval by both Houses and if a resolution approving such regulation

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or order is not passed by both Houses, the regulation or order shall be annulled accordingly.”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

SECTION 6

8. In page 15, between lines 32 and 33, to insert the following:

“(b) a local authority;”.

—*Senator Sean D. Barrett.*

9. In page 15, between lines 32 and 33, to insert the following:

“(b) the Office of the President;”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

10. In page 15, between lines 32 and 33, to insert the following:

“(b) the administrative functions of Tourism Ireland;”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

11. In page 15, between lines 32 and 33, to insert the following:

“(b) the functions of Bus Éireann that directly relate to the provision by it of school transport services for the Department of Education and Skills on a contract agency basis;”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

12. In page 15, between lines 32 and 33, to insert the following:

“(b) receivers and administrators working for/employed by the National Asset Management Agency;”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

SECTION 7

13. In page 18, lines 9 to 16, to delete all words from and including “(1) Subject” in line 9 down to and including line 16 and substitute the following:

“(1) Having regard to the need to ensure the oversight of entities that, though not public bodies, receive funding from the State and the need for such bodies to adhere to the principles of transparency and accountability in government and public affairs as

[SECTION 7]

respects those of their activities that are funded by the State, such bodies and activities are subject to this Act.”.

—*Senator Sean D. Barrett.*

SECTION 8

14. In page 21, between lines 17 and 18, to insert the following:

“(5) If the material specified in *paragraph (e)* of *subsection (2)* is not published and made available in accordance with this section or the material so published and purporting to be the material aforesaid is incomplete or inaccurate and a person shows—

(a) that he or she was not aware of a rule, procedure, practice, guideline, interpretation or precedent referred to in *subsection (2)(e)* or of a particular requirement of the rule, and

(b) that, but for such non-publication, non-availability, incompleteness or incorrectness, as the case may be, he or she would have been so aware,

the public body concerned shall, if and in so far as it is practicable to do so, ensure that the person is not subjected to any prejudice (not being a penalty imposed by a court upon conviction of an offence) by reason only of the application of the rule or requirement if the person could lawfully have avoided that prejudice if he or she had been aware of the rule or requirement.”.

—*Senator Feargal Quinn.*

SECTION 11

15. In page 25, between lines 35 and 36, to insert the following:

“11. The Minister shall, within 12 months of the enactment of this Act, make provision for the establishment of a database to include all information released under the Act and such database shall be made available to the public.”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

16. In page 25, to delete line 37 and substitute the following:

“11. (1) An FOI body shall ensure that all staff employed by that body dealing with FOI requests shall be provided with adequate training in that field.

(2) Subject to this Act, every person has a right to and shall, on request therefor, be”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

17. In page 26, between lines 15 and 16, to insert the following:

“(d) the principle of public ownership and right of access to a genealogical heritage and the need to facilitate, as far as practicable, the undertaking of family history,

[SECTION 11]

biographical, historical or other research.”.

—*Senator Feargal Quinn.*

- 18.** In page 27, between lines 20 and 21, to insert the following:

“(10) The Minister shall, within 3 months of the enactment of this Act, provide a list of the service providers contemplated under *subsection (9)*.”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

SECTION 15

- 19.** In page 31, to delete lines 35 and 36.

—*Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

SECTION 23

- 20.** In page 41, between lines 33 and 34, to insert the following:

“(2) Where the Commissioner considers that a statement of refusal to grant a request under *section 15* is due to inadequate keeping of records he shall seek other records such as notes and discussions and shall examine whether the absence of records is a breach of this Act.”.

—*Senator Sean D. Barrett.*

SECTION 27

Section opposed.

—*Senators David Cullinane, Kathryn Reilly, Trevor Ó Clochartaigh.*

SECTION 31

- 21.** In page 50, line 11, after “member” where it firstly occurs to insert “of Dáil Éireann, Seanad Éireann, or”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

SECTION 37

- 22.** In page 59, between lines 36 and 37, to insert the following:

“(10) Subject to *subsections (1) to (9)*, where the information relates to personal information of the requester, such information shall be released even where the information is provided by a third party.”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

[SECTION 41]

SECTION 41

23. In page 63, to delete line 10 and substitute the following:

“41. (1) The 52 non-disclosure provisions recommended for exclusion in *Schedule 3*, where the Information Commissioner disagreed with the views of the relevant Departments, shall be deleted from *Schedule 3*.

(2) A head shall refuse to grant an FOI request if—”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

SECTION 42

24. In page 66, to delete line 40.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

25. In page 67, to delete lines 5 and 6.

—*Senator Sean D. Barrett.*

SECTION 48

26. In page 71, line 4, to delete “The Minister may draw up and publish a code of practice” and substitute the following:

“The Minister shall, within 3 months of the enactment of this Act, draw up and publish a code of practice”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

27. In page 71, line 7, after “Act” to insert the following:

“, including in relation to the operation of the principle of public ownership and right of access to a genealogical heritage”.

—*Senator Feargal Quinn.*

28. In page 71, between lines 7 and 8, to insert the following:

“(2) The code may include provisions to require FOI bodies to hold all official communication transmitted via electronic device for a period of up to 30 years.”.

—*Senator Feargal Quinn.*

29. In page 71, lines 8 and 9, to delete “The code may include provisions to promote the publication of official and other information” and substitute “The code shall include provisions to promote the publication of official and other information”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

[SECTION 48]

30. In page 71, between lines 9 and 10, to insert the following:

“(3) The code may include provisions to publicly document where FOI bodies have not released information, and to document how long it has taken FOI bodies to release information.”.

—*Senator Feargal Quinn.*

SCHEDULE 1

31. In page 76, to delete lines 20 to 41.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

32. In page 77, to delete lines 15 to 19 and substitute “functions;”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

33. In page 78, to delete lines 40 to 42, to delete page 79, and in page 80, to delete lines 1 to 9.

—*Senator Sean D. Barrett.*

34. In page 79, to delete line 7.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

35. In page 79, to delete line 9.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

36. In page 79, to delete line 14.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

37. In page 79, to delete line 17.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

38. In page 79, to delete line 20.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

[SCHEDULE 1]

39. In page 79, to delete line 21.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

40. In page 79, to delete line 29.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

41. In page 80, line 5, after “Ireland” to insert “, excluding its administrative functions”.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

42. In page 80, to delete line 8.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*

43. In page 80, to delete line 9.

—*Senators Thomas Byrne, Mark Daly, Terry Leyden, Marc Mac Sharry, Paschal Mooney, Brian Ó Domhnaill, Labhrás Ó Murchú, Darragh O'Brien, Denis O'Donovan, Ned O'Sullivan, Averil Power, Jim Walsh, Mary M. White, Diarmuid Wilson.*