



An Bille um Thaifid a Choimeád, 2019
Retention of Records Bill 2019

Mar a tionscnaíodh

As initiated



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CONTENTS

Section

1. Interpretation
2. Disposal of certain records
3. Transfer of records on dissolution of relevant body
4. Amendment of Act of 1986
5. Application of Act of 1986 to records
6. Regulations
7. Amendment of Act of 2000
8. Amendment of Act of 2002
9. Restriction of Freedom of Information Act 2014
10. Expenses
11. Short title, collective citation and commencement

ACTS REFERRED TO

Commission to Inquire into Child Abuse Act 2000 (No. 7)

Commission to Inquire into Child Abuse Acts 2000 and 2005

Freedom of Information Act 2014 (No. 30)

National Archives Act 1986 (No. 11)

Residential Institutions Redress Act 2002 (No. 13)

Residential Institutions Redress Acts 2002 to 2011



AN BILLE UM THAIFID A CHOIMEÁD, 2019
RETENTION OF RECORDS BILL 2019

Bill

entitled

An Act to provide for the retention of certain records of the Commission to Inquire into Child Abuse, the Residential Institutions Redress Board and the Residential Institutions Redress Review Committee; for that purpose to deem those records to be records of the Department of Education and Skills and to transfer those records to the National Archives; to amend the National Archives Act 1986, the Commission to Inquire into Child Abuse Act 2000 and the Residential Institutions Redress Act 2002; and to provide for related matters. 5 10

Be it enacted by the Oireachtas as follows:

Interpretation

1. In this Act—

“Act of 1986” means the National Archives Act 1986; 15

“Act of 2000” means the Commission to Inquire into Child Abuse Act 2000;

“Act of 2002” means the Residential Institutions Redress Act 2002;

“Director” means Director of the National Archives;

“Minister” means Minister for Education and Skills;

“record” means a document in any form (including any electronic form) made or received, by a relevant body, in the performance of its functions, and includes copies of any such records; 20

“relevant body” means—

(a) the Commission to Inquire into Child Abuse,

(b) the Residential Institutions Redress Board, or 25

(c) the Residential Institutions Redress Review Committee;

“sealing period” has the meaning given to it by *section 3(2)*.

Disposal of certain records

2. (1) Where—

- (a) a relevant body certifies in writing that certain records or classes of records are not required to be retained, and
 - (b) the Director or other officer of the National Archives designated by the Director for the purposes of this section (in this section referred to as a “designated officer”) is satisfied that such records do not warrant preservation by the National Archives, 5
- the Director or designated officer may, subject to such conditions as the Director or designated officer considers appropriate, grant an authorisation authorising the disposal of the records or classes of records.
- (2) The Director or designated officer, as the case may be, may, for the purposes of this section, inspect and examine any record. 10
 - (3) (a) Notwithstanding section 27 of the Act of 2000, a person referred to in that section may make available to the Director or designated officer, for the purposes of *subsection (2)*, any record.
 - (b) Notwithstanding section 28 of the Act of 2002, a person referred to in that section may make available to the Director or designated officer, for the purposes of *subsection (2)*, any record. 15
 - (4) Records which are the subject of an authorisation under *subsection (1)* shall be disposed of—
 - (a) in accordance with conditions, if any, specified in the authorisation, and 20
 - (b) by being destroyed in a manner which ensures that their confidentiality is not affected and that their contents are not ascertainable.

Transfer of records on dissolution of relevant body

- 3. (1) Subject to this section and *sections 2 and 5* and notwithstanding section 27(5) of the Act of 2000 and section 28(3) of the Act of 2002, all records shall, on the dissolution of the relevant body concerned— 25
 - (a) be deemed to be records of the Department of Education and Skills, and
 - (b) be transferred to the National Archives.
- (2) A record transferred under *subsection (1)* shall be sealed and withheld from public inspection for a period (in this Act referred to as the “sealing period”) of no less than 75 years commencing on the date of transfer of the record concerned and ending on the coming into operation of regulations made under *section 6* granting access to the record. 30
- (3) (a) Access to a record transferred under *subsection (1)* shall be granted only in accordance with regulations made under *section 6*. 35
- (b) A record or class of record in respect of which—
 - (i) no regulations are made under *section 6*, or
 - (ii) regulations made under *section 6* do not apply,
 shall remain sealed and withheld from public inspection.

Amendment of Act of 1986

4. Section 2 of the Act of 1986 is amended, in subsection (1), by inserting the following paragraph after paragraph (b)—

“(ba) subject to the *Retention of Records Act 2019*, records transferred, under *section 3(1)* of that Act, to the National Archives,”.

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Application of Act of 1986 to records

5. (1) Sections 2(3), 7, 8 and 15 of the Act of 1986 shall not apply to a record transferred under *section 3(1)*.
- (2) Sections 9, 10, 11, 12, 16 and 19(1)(c) to (f) of the Act of 1986 shall not, during the sealing period, apply to a record transferred under *section 3(1)*.

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Regulations

6. (1) Subject to *subsections (2) and (3)*, the Minister may, no earlier than 12 months prior to the expiry of a period of 75 years from the date of transfer of a record under *section 3(1)* and following consultation with the Director, make regulations granting access to the record.
- (2) Where regulations are made, under *subsection (1)*, prior to the expiry of a period of 75 years from the date of transfer of a record under *section 3(1)*, those regulations shall not come into operation prior to the expiry of that period.
- (3) Where the Minister proposes to make regulations under *subsection (1)*, the Minister shall have regard to the effects on the well-being and emotional state of persons alive at the date of the making of the regulations that, in the Minister’s opinion, are reasonably possible as a consequence of a relevant disclosure occurring.
- (4) In *subsection (3)* the reference to the occurrence of a relevant disclosure is a reference to a disclosure of information that would occur as a result of the granting of access to a record by regulations made under *subsection (1)*.
- (5) Without prejudice to this Act, regulations under this section may—
- (a) apply to such class or classes of records as may be specified in the regulations, and
- (b) contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.
- (6) Where regulations are proposed to be made under *subsection (1)*, a draft of those regulations shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving of the draft has been passed by each such House.

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Amendment of Act of 2000

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7. The Act of 2000 is amended—

(a) in section 7(6), by deleting “and, in relation to the custody, and the disposal (otherwise than in a matter that would contravene the National Archives Act

1986), after the dissolution of those bodies, of the documents of the Commission or a Committee and of copies of any documents given in evidence to the Commission or a Committee”, and

- (b) in section 34, by—
 - (i) deleting subsection (4), and 5
 - (ii) in subsection (5), by deleting “, “public body” ”.

Amendment of Act of 2002

8. Section 28 of the Act of 2002 is amended—

- (a) in subsection (6), by substituting “Other than in accordance with *section 3(2)* and *(3)* of the *Retention of Records Act 2019*, a person” for “A person”, and 10
- (b) by deleting subsections (7) and (8).

Restriction of Freedom of Information Act 2014

9. The Freedom of Information Act 2014 shall not apply to a record transferred under *section 3(1)*.

Expenses

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10. The expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Short title, collective citation and commencement

- 11. (1) This Act may be cited as the Retention of Records Act 2019. 20
- (2) The National Archives Act 1986 and *section 4* may be cited together as the National Archives Acts 1986 and 2019.
- (3) The Commission to Inquire into Child Abuse Acts 2000 and 2005 and *section 7* may be cited together as the Commission to Inquire into Child Abuse Acts 2000 to 2019.
- (4) The Residential Institutions Redress Acts 2002 to 2011 and *section 8* may be cited 25 together as the Residential Institutions Redress Acts 2002 to 2019.
- (5) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 30

An Bille um Thaifid a Choimeád, 2019

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht chun socrú a dhéanamh maidir le taifid áirithe de chuid an Choimisiúin chun Drochúsáid Leanaí a Fhiosrú, an Bhoird um Shásamh i leith Foras Cónaithe agus an Choiste Athbhreithnithe um Shásamh i leith Foras Cónaithe a choimeád; chun na críche sin do mheas gur taifid de chuid na Roinne Oideachais agus Scileanna iad na taifid sin agus d'aistriú na dtaifead sin chuig an gCartlann Náisiúnta; do leasú an Achta um Chartlann Náisiúnta, 1986, an Achta um Choimisiún chun Drochúsáid Leanaí a Fhiosrú, 2000 agus an Achta um Shásamh i leith Foras Cónaithe, 2002; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An tAire Oideachais agus Scileanna a thíolaic,

26 Feabhra, 2019

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Presented by the Minister for Education and Skills,

26th February, 2019

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