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

Mar a tionscnaiodh
As initiated

[No. 16 of 2019]
Section

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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
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.

Be it enacted by the Oireachtas as follows:

Interpretation

1. In this Act—

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

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


“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;

“relevant body” means—

(a) the Commission to Inquire into Child Abuse,

(b) the Residential Institutions Redress Board, or

(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,
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.
(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.
(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
(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—
(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.
(3) (a) Access to a record transferred under subsection (1) shall be granted only in
accordance with regulations made under section 6.
(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,”.

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).

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.

Amendment of Act of 2000

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

(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

(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
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.

(2) The National Archives Act 1986 and section 4 may be cited together as the National Archives Acts 1986 and 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.
Retention of Records Bill 2019

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.

Presented by the Minister for Education and Skills, 26th February, 2019

An Bille um Thaifid a Choimeáid, 2019

BILLE

(mar a tionscnaíodh)
dá ngairtear

Acht chun socru 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 choimeáid; chun na críche sin do mheas gur taifid de chuid na Roimne 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 Choimisiúin chun Drochúsáid Leanaí a Fhiosrú, 2000 agus an Achta um Shásamh i leith Foras Cónaithe, 2002; agus do dhéanamh socru i dtaoibh nithe gaolmhara.

An tAire Oideachais agus Scileanna a thíolai, 26 Feabhra, 2019

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