

Up to Date Position

The Bill passed Committee Stage in the Dail on 13 November 2013. The date for Report Stage has not yet been set but the Bill is expected to be enacted in the first half of 2014.

1. Purpose of Bill

The purpose of the Bill is to provide for the commitments in relation to freedom of information contained in the Programme for Government:-

- by removing the main substantive restrictions in access to official information introduced in 2003,
- extending FOI to all public bodies
- providing a framework for the extension of FOI to non-public bodies in receipt of significant funding from the Exchequer
- The legislation also provides an opportunity for a necessary consolidation modernisation and updating of the legislation.

2. Restrictions introduced in 2003

Certain amendments made to the FOI Act 1997 in 2003 were seen as representing a significant curtailment of the principle of the right to access to records provided for in the original Freedom of Information legislation. The current Bill essentially reverses those substantive restrictions. These relate mainly to the treatment of Government Records, restrictions in relation to records under the deliberative process exemption and exemptions for categories of records relating to security, defence, international relations and Northern Ireland.

3. Extension of Freedom of Information

The Bill contains a generic definition of public body which will enable FOI to apply automatically to all public bodies unless specifically exempt in whole or in part. Essentially, FOI is being extended to the widest possible definition of public bodies, including a number of significant high profile bodies which have been excluded since the legislation was first enacted. Provision is also being made in the Bill to allow for the application of FOI to non-public bodies which are in receipt of significant funding from the State. This will be progressed in due course by way of Ministerial Order subject to consultation with the relevant Departments to agree on criteria to select bodies which are a priority for bringing within the FOI regime.

4. Proposed Exemptions

Certain exemptions will be provided for some bodies so as not to affect the ability of these bodies to perform their core functions or in the interests of the security or financial position of the State. The Bill as drafted exempts commercial State bodies, other than Irish Rail, in full from FOI. Other bodies are provided with exemptions in part. These include An Garda Síochána, the National Treasury Management Agency Group, the Central Bank of Ireland, the industrial relations bodies, the Insolvency Service of Ireland and the various Ombudsmen. Details of the exemptions are set out in Section 42 and Schedule 1 to the Bill. Under the draft

legislation, as new public bodies are established, they will automatically be subject to the terms of the FOI legislation but provision is made for the Minister to make an Order to specifically exclude them in whole or in part if required.

5. Fees

The Minister withdrew his proposed amendments to the FOI Bill relating to multi-faceted requests (Section 12) and Fees and Charges (Section 27) at Committee Stage of the Bill on 13 November 2013 with a view to re-submitting proposals at Report Stage of the Bill which as yet has not been scheduled. The Minister is considering this matter at present and intends to submit proposals to Government shortly in that regard.

6. Code of Practice for Freedom of Information for Public Bodies

In tandem with the development of the FOI Bill, a comprehensive review of the implementation of the FOI legislation has been carried out by an external group (comprising academia, journalists, users) and a Public Bodies group. This has resulted in the drafting of a Code of Practice setting out best practice in relation to the operation of FOI in Public Bodies. The Code aims to secure appropriate consistency and standardisation of approach by public bodies in responding to FOI requests, enhance the overall efficiency of Ireland's FOI regime and to secure a sustained improvement in the performance by public bodies of their responsibilities under FOI. Following Government approval it is intended to publish the draft Code for public consultation with a view to having it completed on or before enactment of the new FOI legislation.