[IE] Developments concerning Freedom of Information

IRIS 2003-9:1/28

Tarlach McGonagle
Institute for Information Law (IViR), University of Amsterdam

A number of recent legislative and other developments in Ireland are likely to affect the implementation of the country's freedom of information (FOI) legislation (see IRIS 1997-10: 8). On 11 April 2003, the Freedom of Information (Amendment) Act was promulgated into law. One of the most significant amendments introduced by the Amendment Act was a considerable broadening of the definition of "Government" (for the purposes of determining exempt records see further, Section 19 of the original 1997 FOI Act). This concept already included committees of Government, but Section 14 of the Amendment Act has now extended it to include committees of "officials" (i.e., two or more of the following persons: civil servants, special advisers or members of any of such other classes of person "as may be prescribed") as well. The widened embrace of the definition of "Government" means that an increased volume of documents can now be precluded from discovery.

As a result of the Freedom of Information Act 1997 (Fees) Regulations 2003, Statutory Instrument No. 264 of 2003, mandatory charges for requests for non-personal information and subsequent appeals were introduced as of 7 July 2003. The details of these charges are as follows: EUR 15 for a request for access to records other than records containing only personal information relating to oneself; EUR 75 for an application for the internal review of a decision by a public body to refuse to grant a request for access to records and EUR 150 for an application for the review of such a decision by the Information Commissioner. Thus, to pursue a request for access to records all the way through the existing appeals mechanisms will now ordinarily cost a total of EUR 240. This means that in practice, the charges attaching to requests for appeals in Ireland now appear to be higher than those payable in other jurisdictions and it is feared that they may prove a significant deterrent to individuals, NGOs and journalists wishing to acquire information under the FOI legislation. This fear has been articulated, inter alia, by the Information Commissioner, who has criticised the introduction and scale of these charges.

Under an initiative by the Department of Communications, Marine and Natural Resources, the names of requesters of information from the Department under the FOI Act are now being published on the Department's web-site. This has been styled as part of the quest for greater governmental transparency, but it is feared in some quarters that the initiative may yet prove a significant disincentive to individuals and journalists seeking to obtain information from the Department

© European Audiovisual Observatory (Council of Europe) 2026

through FOI channels.

Freedom of Information Act, 1997 (No. 13 of 1997), enacted on 21 April 1997

http://www.oic.gov.ie/2132/FREEACT.PDF

Freedom of Information (Amendment) Act 2003 (No. 9 of 2003), enacted on 11 April 2003

http://www.oic.gov.ie/2546/FOIAmAct.pdf

Freedom of Information Act 1997 (Fees) Regulations 2003, Statutory Instrument No. 264 of 2003, issued on 30 June 2003

http://www.oic.gov.ie/257a_3c2.htm

Information Commissioner's Press Release of 1 July 2003

http://www.oic.gov.ie/2576_3c2.htm

Department of Communications, Marine and Natural Resources Freedom of Information Requests Log

http://www.dcmnr.gov.ie/display.asp/pg=915

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026