[IE] New Freedom of Information Law

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Following its 12-month passage through parliament, the new Freedom of Information Act 2014 came into force in Ireland on 14 October 2014. The 91-page law repeals both the original Freedom of Information Act 1997 (see IRIS 1997-10/13) and the Freedom of Information (Amendment) Act 2003 (see IRIS 2003-9/28). Moreover, the Irish public expenditure minister has made a ministerial order under the 2014 Act, setting out the new fees that will be charged for freedom of information requests from October 2014 onwards.

The most significant reform brought about by the 2014 Act is that, instead of listing specific bodies which are subject to freedom of information law, the Act now extends to all "public bodies", subject to exemptions. The Act provides a generic definition of "public bodies", which includes all government departments, bodies established by statute or government, public universities and all bodies covered by previous legislation. Moreover, any public body created by government or statute in the future is automatically subject to the freedom of information law.

Of particular note, the freedom of information law now extends to many new bodies not previously subject to the law. These new bodies include companies in which the government holds a majority of shares, subsidiaries of such companies, the police force, the central bank and the national asset management agency (a government-created agency holding large banking assets). Bodies now covered by freedom of information law, but which were not previously covered, are granted a six-month period before being subject to the new law. The Act also provides that the minister may extend the law to non-public bodies, particularly companies that receive government funding. However, the Act exempts a number of public bodies from freedom of information law, including most commercial state bodies (e.g. bus, rail, utilities) and certain police and defence agencies.

Importantly, in relation to government records, the 2014 Act reduces the period during which certain government records are exempt from freedom of information requests, from 10 years to five (reversing an amendment brought in under the 2003 Act). The Act also contains a number of exemptions in relation to public-body records, including records which are commercially sensitive and records which could "reasonably be expected to affect adversely" security, defence or international relations.

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Finally, following a ministerial order under the 2003 Act, a more expensive fee regime was introduced in 2003, including a new EUR 15 application fee for freedom of information requests, a EUR 70 fee for an internal review of the request, and a EUR 150 fee for appeals to the information commissioner. Thus, under the 2003 fee regime, the total fee for pursuing a refused freedom of information request was EUR 240. The new ministerial order under the 2014 Act has significantly reduced these fees, including the abolition of the application fee, and reductions in both the internal review and appeal to the information commission fees to EUR 30 and EUR 50 respectively. This means that pursuing a freedom of information request to the information commissioner will now cost EUR 80. Moreover, the ministerial order provides for caps on how much public bodies can charge for search, retrieval and copying fees.

Freedom of Information Act 2014, No. 30 of 2014, 14 October 2014

http://www.irishstatutebook.ie/2014/en/act/pub/0030/index.html

Freedom of Information Act 2014 (Fees) Regulations, S.I. No. 484/2014, 28 October 2014

http://www.irishstatutebook.ie/2014/en/si/0484.html

Freedom of Information Bill 2013 Explanatory Memorandum

http://www.oireachtas.ie/documents/bills28/bills/2013/8913/b8913d-memo.pdf

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