[IE] New Freedom of Information

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In April 1997, a new Freedom of Information Act was passed in Ireland, following several years of campaigning by various individuals and organisations, including the Let in the Light group, headed mainly by print and audio-visual journalists and academics.

The new Act signals a first and major step towards changing the culture of secrecy within government and the public service to one of openness. Its aim is to provide effective, low-cost access to government-held information to media and public alike. Some of the more salient provisions of the Act include the appointment of an Information Commissioner. This role, which involves reviewing refusals of access, will be filled by the national Ombudsman. A further appeal to the High Court on a point of law will be possible.

Public bodies are required under the Act to prepare a reference book indicating their structure and organisation, the type of records they hold and the arrangements made by them to enable access. Government departments and public bodies have twelve months from the date of passing of the Act in which to make the necessary preparations and arrangements for implementing the scheme of access. Local authorities and Health Boards have eighteen months to do so. Other bodies will only be brought within the ambit of the Act when ministerial orders are made for that purpose.

Of immense importance in freedom of information legislation is the extent and nature of information that is exempted. Included in the exempted categories in the Irish legislation are certain kinds of deliberations of government and public bodies, law enforcement and public safety matters, and particularly, security, defence and international relations, as well as confidential and commercially sensitive information. The list is extensive and this is one of the worries about legislation and how it will operate in practice. Coupled with this is the fact that the Official Secrets Act of 1963, which contains a very broad definition of official secret, remains in place, with only minimal amendment to ensure that the new Act is not totally frustrated. The Official Secrets Act is, however, under review. It became necessary also to hold a constitutional referendum on the issue of Cabinet Confidentiality because of a Supreme Court ruling in 1992 that discussions at cabinet were absolutely privileged and could not be disclosed in any circumstances. The effects of such a decision for investigative journalism and for historians may still be felt, however, because of the narrow wording of the text

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of the proposed amendment to the Constitution that is the subject of the referendum.The amendment would allow the High Court to lift the veil of confidentiality in two circumstances only: if necessitated by court proceedings or the workings of a tribunal of inquiry. The referendum takes place on 30 October.

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