

CHAPTER 1

Freedom of Information Act

1. General

- 1.1. The Freedom of Information Act 1997, as amended by the Freedom of Information (Amendment) Act 2003, known as the FOI Acts, is designed to enable members of the public to access information, which is not routinely available from public bodies.
- 1.2. The FOI Act 1997 came into operation on 21 April 1998 and established three new statutory rights. These enable each member of the public to access information held by public bodies, to have official information relating to oneself amended where it is incomplete, incorrect or misleading and to obtain reasons for decisions particularly affecting oneself.
- 1.3. Requests under the FOI Act must be dealt with within specified time limits and fees may apply. Further information on these issues is set out at paragraphs 8 and 10.
- 1.4. The main change to FOI as a result of the Freedom of Information (Amendment) Act, 2003 is the introduction of statutory fees for non-personal requests. Details are outlined in paragraph 10. Changes were also made to allow certain classes of individuals to make application under Sections 17 and 18 of the FOI Act on behalf of specified individuals. Other amendments included extending the time limit from 5 years to 10 years for release of government papers. Further details may be obtained from the Department of Finance (www.finance.gov.ie).

2. Publications

- 2.1. To support the public in exercising these rights under FOI, each public body is required, under sections 15 and 16 of the Act, to publish two reference books. The first text sets out an outline of the structure, functions and classes of records of a public body and is known as the section 15 publication. The second publication comprises rules, procedures and practices and guidelines used for the purposes of decision-making etc. by the public body and is known as the section 16 publication.
- 2.2. Both Revenue publications are available on the Revenue Website at www.revenue.ie. They can be downloaded, free of charge. The Section 15 publication can also be obtained free of charge from Information Management Branch, Freedom of Information Unit, Cross Block, Dublin Castle, Dublin 2.

3. Access outside of FOI

- 3.1. It is important to bear in mind that Revenue provides information outside of FOI as a matter of routine in relation to the functions, activities and schemes, particularly information on general questions of tax administration. This information is provided on the Revenue Internet web site, by way of public notices, statements of practice, press, television and radio advertisements.
- 3.2. A list of current information leaflets is shown in Appendix 1. Before making an FOI request, you may wish to check to see whether the information is routinely available. If it is, it can be obtained free of charge and without recourse to FOI

4. Access under FOI

- 4.1. In practical terms the FOI Act enables members of the public to -
 - (a) obtain personal information about oneself held by Revenue irrespective of when the record was created,
 - (b) access other records created on or after the commencement date of FOI i.e. April 21st 1998,
 - (c) access records created before 21 April 1998 necessary or expedient to the understanding of records created after April 21st 1998,

- (d) correct personal information relating to oneself held by Revenue where it is inaccurate, incomplete or misleading and
 - (e) seek reasons for decisions made by Revenue, which particularly affect one.
- 4.2. In Revenue a central section deals with all FOI requests. It is known as the Information Management Branch, Freedom of Information Unit and is based on Ground Floor, Cross Block, Dublin Castle Dublin 2. It may be contacted by email at FOI@revenue.ie, telephone 7020850 or fax 7024203. Requests for information under FOI should be forwarded to this Unit.

5. Exceptions to right of access

- 5.1. Some exemptions to the right of access are provided for in the FOI Act. These exemptions are necessary so as to enable public bodies to undertake particularly sensitive work and to protect the legitimate interests of the public whom they serve.
- 5.2. For Revenue, the exemptions protecting personal or commercially sensitive information along with those protecting investigations, audit and prosecutions are of particular importance.
- 5.3. The Information Commissioner has issued findings, which provide guidance on the application of such exemptions. Details can be found on his website <http://www.oic.gov.ie/> which can also be accessed through the links on the Revenue website.

6. Procedures for access under FOI

- 6.1. Requests for information must be in writing and must show
 - (a) full name and address of the person making the request,
 - (b) phone/fax number (if available),
 - (c) details of the information requested which should be as specific as possible and
 - (d) a statement that the information is sought under the Freedom of Information Act.
- 6.2. A cheque, bank draft or postal order for €15 must accompany the request, unless the request falls into categories outlined in paragraph 10
- 6.3. If the information is required in a particular format e.g. photocopy, computer disc this should also be stated.
- 6.4. If a requester has difficulty in identifying the precise records sought, the staff of the FOI Unit will be happy to advise on preparing a request.
- 6.5. An official FOI Application Form (see appendix 4) may be used, but it is not essential. Requests may be made using ordinary paper. Copies of the form may be downloaded from the Revenue website or obtained from the FOI Unit at the address shown in paragraph 4.2.

7. Personal Information

- 7.1. In the normal course, before a request for personal information can be processed, the identity of the individual, and/or consent of any third party involved must be established and verified. In such circumstances it is essential that the requester furnish their PPS number (Personal Public Service Number/ RSI Number), or in the case of a third party, the written consent of the person to whom the information relates.

8. Time limits

- 8.1. In general, Revenue is obliged to acknowledge receipt of a request not later than two weeks, and to issue a decision on the request not later than four weeks after date of receipt. In exceptional circumstances, the time allowed for making a decision may be extended by up to a further four weeks. In such instance, the FOI Unit will contact the requester and advise accordingly.

- 8.2. If the information requested is held by another public body the request will be directed to that public body not later than two weeks of receipt, and the requester will be notified accordingly.

9. Decisions

- 9.1. In cases of requests for access to records, Revenue may decide to grant access to all of the records sought, or to some, or to refuse access, consistent with the provisions of the FOI Act.
- 9.2. Where access is granted Revenue will, normally provide photocopies of the records involved.
- 9.3. In response to all FOI requests, the requester will be notified of Revenue's decision and, if the request is refused, reasons for refusal will be given.

10. Statutory fees for non-personal requests

- 10.1. A cheque, bank draft or postal order for €15 must accompany the request, unless the request is for:
- (a) Personal records relating to the individual making the request
 - (b) The amendment of information, which is incomplete, incorrect or misleading.
 - (c) Reasons for an act by the public body, which affects the person making the request
- 10.2. A cheque, bank draft or postal order for €75 must accompany an application for internal review unless:
- (a) the application is for review of a decision relating to the personal records of the requester.
 - (b) the application is for review of a decision made under section 17 or 18 or
 - (c) the application is in relation to a decision to charge fees for search and retrieval
- 10.3. A fee of €150 applies to appeals to the Office of the Information Commissioner unless:
- (a) the application is for review of a decision relating to the personal records of the requester.
 - (b) the application is for review of a decision made under section 17 or 18 or
 - (c) the application is in relation to a decision to charge fees for search and retrieval
- 10.4. Medical cardholders and dependants of medical cardholders may avail of reduced fees in the above instances. The reduced fees are as follows:
- (a) Original decision - €10
 - (b) Internal review - €25
 - (c) Appeal to the IC - €50

Requesters who wish to avail of these reduced fees should include their medical card number, their Health Board and give written permission to Revenue to check the number with the relevant Health Board.

11. Search and Retrieval fees

- 11.1. Subject to paragraphs 10.6 - 10.8, where access to records is granted, fees will be charged where a large number of personal records, or where non-personal records are involved.
- 11.2. The fees applicable are €20.95 per hour in respect of time spent in locating and retrieving records, €0.04 per page for photocopying of records and €0.51 for providing records on a diskette. A deposit of 20% of the fee is payable where the fee is likely to exceed €50.79. Where a deposit is payable the search for the records cannot commence until the deposit has been paid.
- 11.3. Fees are not charged for requests for amendment of personal information made under section 17 of the FOI Act, or for reasons for decisions under section 18 of the Act.

- 11.4. Fees may be waived where the cost of collecting and accounting for a fee would exceed the amount of the fee, or the information would be of particular assistance to the understanding of an issue of national importance.
- 11.5. Photocopying charges can be waived in respect of a request for personal information having regard to the means of a requestor.

12. Internal Review

- 12.1. Internal review is an appeals mechanism under the FOI Act by which, if a requester is unhappy with an FOI decision, a public body is required to look afresh at that decision. A requester is entitled to seek an internal review of a decision by Revenue if access to records is refused (in whole or in part). A requester is also entitled to seek internal review where Revenue refuses to amend personal information, or to provide reasons for decisions particularly affecting one.
- 12.2. A decision by Revenue in respect of FOI fees in excess of €12.70 as well as failure to respond in the normal course within four weeks to an FOI request may also be appealed to internal review. A requester is also entitled to seek internal review of other FOI decisions by Revenue, such as the deferral of access to records, the grant of access in a particular form, the adequacy of reasons for decisions provided etc.
- 12.3. Requests for internal review should be submitted in writing to the FOI Unit at the address shown in paragraph 4.2.
- 12.4. Normally, a request for an internal review should be submitted not later than four weeks after the notification of the initial decision. However, the four-week period may be extended where there are reasonable grounds. Revenue must complete the internal review not later than three weeks after receipt of the internal review request.

A Revenue official of a more senior grade than the original decision maker will carry out an internal review.

13. Appeals to Information Commissioner

- 13.1. The Office of the Information Commissioner is an independent Office established by the FOI Act. It has powers to review FOI decisions made by public bodies and to oversee the operation of the Act generally.
- 13.2. Where a requester is not satisfied with the outcome of an internal review by Revenue, s/he may then appeal directly to the Information Commissioner at the address shown in paragraph 13.6 below.
- 13.3. The Information Commissioner may not review an initial Revenue decision that has not been the subject of an internal review. Exceptions to this rule only arise in the case of a decision to extend the time to deal with a request, or where the initial decision is made personally by the head of the public body.
- 13.4. An application to the Information Commissioner for a review must, in general, be made within six months of receiving notice of the internal review decision, or within such further period as is determined by the Information Commissioner to be reasonable in the circumstances. Requests for review must be in writing.
- 13.5. Decisions by the Information Commissioner are binding on the parties subject to appeal to the High Court and ultimately the Supreme Court on a point of law.

The Information Commissioner's address is— Office of the Information Commissioner, 18 Lower Leeson Street, Dublin 2. LoCall 1890 223030., e-mail info@oic.ie, website <http://www.oic.gov.ie/>