



---

*Number 9 of 2003*

---

**FREEDOM OF INFORMATION (AMENDMENT) ACT 2003**

---

ARRANGEMENT OF SECTIONS

Section

1. Definition.
2. Amendment of section 2 (interpretation) of Principal Act.
3. Amendment of section 4 (delegation of certain functions of heads) of Principal Act.
4. Amendment of section 6 (right of access to records) of Principal Act.
5. Amendment of section 7 (requests for access to records) of Principal Act.
6. Amendment of section 8 (decisions on requests under section 7 and notification of decisions) of Principal Act.
7. Amendment of section 10 (refusal on administrative grounds to grant requests under section 7) of Principal Act.
8. Amendment of section 13 (access to parts of records) of Principal Act.
9. Amendment of section 14 (review by heads of decisions) of Principal Act.
10. Amendment of section 15 (publication of information about public bodies) of Principal Act.
11. Amendment of section 16 (publication of information regarding rules and practices in relation to certain decisions by public bodies) of Principal Act.
12. Amendment of section 17 (amendment of records relating to personal information) of Principal Act.
13. Amendment of section 18 (right of person to information regarding acts of public bodies affecting the person) of Principal Act.

## Section

14. Amendment of section 19 (meetings of the Government) of Principal Act.
15. Amendment of section 20 (deliberations of public bodies) of Principal Act.
16. Amendment of section 21 (functions and negotiations of public bodies) of Principal Act.
17. Amendment of section 22 (parliamentary, court and certain other matters) of Principal Act.
18. Amendment of section 23 (law enforcement and public safety) of Principal Act.
19. Amendment of section 24 (security, defence and international relations) of Principal Act.
20. Amendment of section 25 (conclusiveness of certain decisions pursuant to sections 23 and 24) of Principal Act.
21. Amendment of section 26 (information obtained in confidence) of Principal Act.
22. Amendment of section 27 (commercially sensitive information) of Principal Act.
23. Amendment of section 28 (personal information) of Principal Act.
24. Amendment of section 29 (procedure in relation to certain requests under section 7 to which section 26, 27 or 28 applies) of Principal Act.
25. Amendment of section 33 (establishment of office of Information Commissioner) of Principal Act.
26. Amendment of section 34 (review by Commissioner of decisions) of Principal Act.
27. Amendment of section 42 (appeal to High Court) of Principal Act.
28. Amendment of section 43 (precautions by High Court and Commissioner against disclosure of certain information) of Principal Act.
29. Amendment of section 46 (restriction of Act) of Principal Act.
30. Amendment of section 47 (fees) of Principal Act.
31. Amendment of Second Schedule to Principal Act.
32. Short title and collective citation.

[2003.]

*Freedom of Information  
(Amendment) Act 2003.*

[No. 9.]

Acts Referred to

Ethics in Public Office Act 1995	1995, No. 22
Freedom of Information Act 1997	1997, No. 13
Local Government Act 2001	2001, No. 37
Organisation of Working Time Act 1997	1997, No. 20
Tribunals of Inquiry (Evidence) Act 1921	11 & 12 Geo. 5, c. 7





Number 9 of 2003

## FREEDOM OF INFORMATION (AMENDMENT) ACT 2003

AN ACT TO AMEND THE FREEDOM OF INFORMATION  
ACT 1997 AND TO PROVIDE FOR RELATED MATTERS.

[11th April, 2003]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

- 1.**—In this Act “Principal Act” means the Freedom of Information Act 1997. Definition.
- 2.**—Section 2 of the Principal Act is amended in subsection (1)— Amendment of section 2 (interpretation) of Principal Act.
- (a) in the definition of “record”, by adding, after “two or more of the foregoing”, “and a copy, in any form, of a record shall be deemed, for the purposes of this Act, to have been created at the same time as the record;”,
- (b) by substituting the following for the definition of “local authority”:
- “ ‘local authority’ means a local authority for the purposes of the Local Government Act 2001;”,
- and
- (c) by adding the following definitions:
- “ ‘factual information’ includes information of a statistical, econometric or empirical nature, together with any analysis thereof;
- ‘week’ means a period of 5 consecutive week-days and, in determining such a period, a Saturday or a public holiday (within the meaning of the Organisation of Working Time Act 1997) shall be disregarded and ‘weeks’ shall be construed accordingly.”.
- 3.**—Section 4 of the Principal Act is amended by deleting subsection (5). Amendment of section 4 (delegation of certain functions of heads) of Principal Act.

[No. 9.] *Freedom of Information* [2003.]  
(Amendment) Act 2003.

Amendment of section 6 (right of access to records) of Principal Act.

**4.**—Section 6 of the Principal Act is amended by the addition of the following subsection:

“(11) (a) In subsections (4) to (6), ‘commencement of this Act’, in relation to local authorities and health boards, means 21 October, 1998.

(b) In subsection (9), ‘person’ does not include a public body or any other body, organisation or group that is specified in clauses (a) to (g) of subparagraph (5) of paragraph 1 of the First Schedule and does not stand prescribed for the time being for the purposes of that subparagraph.”.

Amendment of section 7 (requests for access to records) of Principal Act.

**5.**—Section 7 of the Principal Act is amended by inserting the following subsection after subsection (7):

“(8) A person who makes a request under subsection (1) may, at any time before the making of a decision under section 8(1) in relation to the request, by notice in writing or in such other form as may be determined, given to the head concerned, withdraw the request and the head concerned shall cause notice of the withdrawal to be given to any other person to whom, in the opinion of the head, it should be given.”.

Amendment of section 8 (decisions on requests under section 7 and notification of decisions) of Principal Act.

**6.**—Section 8 of the Principal Act is amended—

(a) in subsection (2), in paragraph (d)(ii), by substituting “section 19(5), 22(2), 23(2), 24(3), 26(4), 27(4) or 28(5A)” for “section 19(5), 22(2), 23(2) or 24(3)”,

and the said subsection (2) (other than paragraphs (a) to (c) and (e) and (f) as so amended is set out in the Table to this section,

and

(b) in subsection (4), by substituting “Subject to the provisions of this Act, in deciding” for “In deciding”,

and the said subsection (4), as so amended, is set out in the Table to this section.

TABLE

(2) A notice under subsection (1) shall specify—

(d) if the request aforesaid is refused, whether wholly or in part—

(i) the reasons for the refusal, and

(ii) unless the refusal is pursuant to section 19(5), 22(2), 23(2), 24(3), 26(4), 27(4) or 28(5A), any provision of this Act pursuant to which the request is refused and the findings on any material issues relevant to the decision and particulars of any matter relating to the public interest taken into consideration for the purposes of the decision,

(4) Subject to the provisions of this Act, in deciding whether to grant or refuse to grant a request under section 7—

- (a) any reason that the requester gives for the request, and
- (b) any belief or opinion of the head as to what are the reasons of the requester for the request,

shall be disregarded.

**7.—**Section 10 of the Principal Act is amended in subsection (1)—

Amendment of section 10 (refusal on administrative grounds to grant requests under section 7) of Principal Act.

- (a) by deleting “the other” in paragraph (c),
- (b) in paragraph (e), by inserting “, or forms part of a pattern of manifestly unreasonable requests from the same requester or from different requesters who, in the opinion of the head, appear to have made the requests acting in concert” after “vexatious”, and
- (c) in paragraph (f), by inserting “in respect of the request concerned or in respect of a previous request by the same requester” after “section 47”,

and the said subsection (1) (other than paragraphs (a), (b) and (d)), as so amended, is set out in the Table to this section.

#### TABLE

(1) A head to whom a request under section 7 is made may refuse to grant the request if—

- (c) in the opinion of the head, granting the request would, by reason of the number or nature of the records concerned or the nature of the information concerned, require the retrieval and examination of such number of records or an examination of such kind of the records concerned as to cause a substantial and unreasonable interference with or disruption of work of the public body concerned,
- (e) the request is, in the opinion of the head, frivolous or vexatious, or forms part of a pattern of manifestly unreasonable requests from the same requester or from different requesters who, in the opinion of the head, appear to have made the requests acting in concert, or
- (f) a fee or deposit payable under section 47 in respect of the request concerned or in respect of a previous request by the same requester has not been paid.

**8.—**Section 13 of the Principal Act is amended in subsection (3) by substituting “section 19(5), 22(2), 23(2), 24(3), 26(4), 27(4) or 28(5A)” for “section 19(5), 22(2), 23(2) or 24(3)”, and the said subsection (3), as so amended, is set out in the Table to this section.

Amendment of section 13 (access to parts of records) of Principal Act.

#### TABLE

(3) Where a requester is offered access to a copy of part of a record under this section, then (unless the record is one to which section 19(5), 22(2), 23(2), 24(3), 26(4), 27(4) or 28(5A) applies), the notice under section 8(1) concerned shall specify that such access is offered pursuant to this section and that the copy does not purport to be a copy of the complete record to which the request under section 7 relates and shall also specify the nature of the matter contained in the record by virtue of which subsection (1) applies to the record.

Amendment of  
section 14 (review  
by heads of  
decisions) of  
Principal Act.

**9.**—Section 14 of the Principal Act is amended—

- (a) in subsection (5), in paragraph (c), by substituting “section 10(1)(c), 19(5), 22(2), 23(2), 24(3), 26(4), 27(4) or 28(5A)” for “section 10(1)(c), 19(5), 22(2), 23(2) or 24(3)”,

and the said subsection (5) (other than paragraphs (a) and (b) and (d) to (f)), as so amended, is set out in the Table to this section,

and

- (b) by substituting the following subsection for subsection (8):

“(8) The relevant person concerned may, at any time before the making of a decision under subsection (2) following the review concerned, by notice in writing or in such other form as may be determined, given to the head concerned, withdraw the application concerned under that subsection and the head concerned shall cause a copy of any notice given to him or her under this subsection to be given to any other person to whom, in the opinion of the head, it should be given.”.

TABLE

- (5) A notice under subsection (4) shall specify—

- (c) if the decision is to refuse to grant, wholly or in part, the request aforesaid, the information specified in subparagraph (i) of paragraph (d) of section 8(2) and, if the refusal is not pursuant to section 10(1)(c), 19(5), 22(2), 23(2), 24(3), 26(4), 27(4) or 28(5A), the information specified in subparagraph (ii) of that paragraph,

Amendment of  
section 15  
(publication of  
information about  
public bodies) of  
Principal Act.

**10.**—Section 15 of the Principal Act is amended—

- (a) by deleting subsection (4),

- (b) in subsection (6), in paragraph (d), by substituting the following subparagraph for subparagraph (ii):

“(ii) the period of 12 months or of such other length as may be determined beginning on the expiration of the period aforesaid and each subsequent period of 12 months or of such other length as may be determined beginning on the expiration of the period of 12 months or of such other length as may be determined immediately preceding.”.

- (c) in subsection (7), by substituting “subsection (1) or (2)” for “subsection (1), (2) or (4)”, and

- (d) by inserting the following subsection after subsection (8):

“(9) In this section ‘published’ includes published by electronic means, and ‘publication’ shall be construed accordingly.”.



- 11.**—Section 16 of the Principal Act is amended by inserting the following after subsection (7):
- Amendment of section 16 (publication of information regarding rules and practices in relation to certain decisions by public bodies) of Principal Act.
- “(8) In this section ‘published’ includes published by electronic means, and ‘publication’ shall be construed accordingly.”.
- 12.**—Section 17 of the Principal Act is amended by inserting the following subsection after subsection (5):
- Amendment of section 17 (amendment of records relating to personal information) of Principal Act.
- “(6) Notwithstanding subsection (1), the Minister may provide by regulations for the making of an application under that subsection—
- (a) by the parent or guardian of an individual referred to in that subsection, if the individual belongs to a class specified in the regulations, or
- (b) in a case where such an individual is dead, by a member of a class specified in the regulations.”.
- 13.**—Section 18 of the Principal Act is amended by inserting the following subsection after subsection (5):
- Amendment of section 18 (right of person to information regarding acts of public bodies affecting the person) of Principal Act.
- “(5A) Notwithstanding subsection (1), the Minister may provide by regulations for the making of an application under that subsection—
- (a) by the parent or guardian of a person referred to in that subsection if the person belongs to a class specified in the regulations, or
- (b) in a case where such a person is dead, by a member of a class specified in the regulations.”.
- 14.**—Section 19 of the Principal Act is amended—
- Amendment of section 19 (meetings of the Government) of Principal Act.
- (a) in subsection (1)—
- (i) by substituting “shall refuse” for “may refuse”,
- (ii) by inserting the following paragraph after paragraph (a):
- “(aa) consists of a communication—
- (i) between two or more members of the Government relating to a matter that is under consideration by the Government or is proposed to be submitted to the Government, or
- (ii) between two or more such members who form, or form part of, a group of such members to which a matter has been referred by the Government for consideration by the group and the communication relates to that matter,”,

and

S.14

(iii) in paragraph (c), by substituting “primarily” for “solely” and the said subsection (1) (other than paragraphs (a), (aa) and (b)), as so amended, is set out in the Table to this section,

(b) in subsection (2), by substituting the following paragraph for paragraph (b):

“(b) is not a record by which a decision of the Government is published to the general public by or on behalf of the Government.”,

(c) by substituting the following subsection for subsection (3):

“(3) Subject to the provisions of this Act, subsection (1) does not apply to a record referred to in that subsection—

(a) if and in so far as it contains factual information relating to a decision of the Government that has been published to the general public,

(b) if the record relates to a decision of the Government that was made more than 10 years before the receipt by the head concerned of the request under section 7 concerned, or

(c) if the record relates to a communication to which subsection (1)(aa) applies and the communication was made more than 10 years before the receipt by the head concerned of the request under section 7 concerned.”,

(d) by substituting the following subsection for subsection (4):

“(4) The Secretary General to the Government shall, in each year after the year 2003, furnish to the Commissioner a report in writing specifying the number of certificates issued by him or her in the preceding year under paragraph (b) of the definition of ‘Government’ in subsection (6).”,

and

(e) in subsection (6)—

(i) by substituting the following definition for the definition of “Government”:

“‘Government’ (except in paragraphs (a) and (b)) includes—

(a) a committee of the Government, that is to say, a committee appointed by the Government whose membership consists of—

(i) members of the Government, or

(ii) one or more members of the Government together with either or both of the following:

(I) one or more Ministers of State, S.14

(II) the Attorney General,

and

(b) a committee of officials—

(i) that is appointed by the Government for the purpose of assisting the Government in relation to a particular matter that has been submitted to the Government for their consideration,

(ii) that is requested by the Government to report directly to them in relation to the matter, and

(iii) in relation to which the Secretary General to the Government certifies in writing at the time of its appointment that it is a committee of officials falling within this paragraph;”,

and

(ii) by adding the following definition:

“ ‘officials’ means two or more of the following persons:

(a) a person holding a position in the Civil Service of the Government or the Civil Service of the State;

(b) a special adviser within the meaning of section 19 of the Ethics in Public Office Act 1995;

(c) a person who is a member of any of such other (if any) classes of person as may be prescribed.”.

#### TABLE

(1) A head shall refuse to grant a request under section 7 if the record concerned—

(c) contains information (including advice) for a member of the Government, the Attorney General, a Minister of State, the Secretary to the Government or the Assistant Secretary to the Government for use by him or her primarily for the purpose of the transaction of any business of the Government at a meeting of the Government.

**15.**—Section 20 of the Principal Act is amended—

(a) by substituting the following subsections for subsection (1):

“(1) A head may refuse to grant a request under section 7 if the record concerned contains matter relating to the deliberative processes of a public body (including opinions, advice, recommendations, and the results of

Amendment of  
section 20  
(deliberations of  
public bodies) of  
Principal Act.

S.15

consultations, considered by the body, the head of the body, or a member of the body or of the staff of the body for the purpose of those processes).

(1A) (a) Notwithstanding subsection (1), a head shall refuse to grant a request under section 7 in respect of a record in relation to which a Secretary General of a Department of State has issued a certificate in writing stating that the record contains matter relating to the deliberative processes of a Department of State.

(b) Where a certificate under paragraph (a) is in force and the Secretary General of the Department of State concerned is satisfied that the deliberative processes concerned have ended, he or she shall, by certificate in writing, revoke the certificate and, thereupon, paragraph (a) shall cease to apply.

(c) A certificate under this subsection shall be final and, accordingly, an application for a review under section 14 or 34 in relation to a decision under paragraph (a) shall not lie.

(d) A Secretary General of a Department of State shall, in each year after the year 2003, furnish to the Commissioner a report in writing specifying the number of certificates issued by him or her in the preceding year under paragraph (a) and the number of certificates so issued under paragraph (b).”,

(b) in subsection (2), by substituting the following paragraph for paragraph (b):

“(b) factual information,”,

and

(c) by inserting the following subsection after subsection (2):

“(3) Subsection (1) does not apply in relation to a case in which, in the opinion of the head concerned, the public interest would, on balance, be better served by granting than by refusing to grant the request.”.

Amendment of  
section 21  
(functions and  
negotiations of  
public bodies) of  
Principal Act.

**16.**—Section 21 of the Principal Act is amended in subsection (1)—

(a) in paragraph (a), by substituting “conducted by or on behalf of a public body” for “conducted by or on behalf of the public body concerned”, and

(b) in paragraph (b), by substituting “the performance by a public body of any of its functions” for “the performance by the body of any of its functions”,

and the said subsection (1) (other than paragraph (c)), as so amended, is set out in the Table to this section.

## TABLE

S.16

(1) A head may refuse to grant a request under section 7 if access to the record concerned could, in the opinion of the head, reasonably be expected to—

- (a) prejudice the effectiveness of tests, examinations, investigations, inquiries or audits conducted by or on behalf of a public body or the procedures or methods employed for the conduct thereof,
- (b) have a significant, adverse effect on the performance by a public body of any of its functions relating to management (including industrial relations and management of its staff), or

**17.—Section 22 of the Principal Act is amended—**

Amendment of section 22 (parliamentary, court and certain other matters) of Principal Act.

- (a) in subsection (1), by substituting the following paragraph for paragraph (b):

“(b) is such that the head knows or ought reasonably to have known that its disclosure would constitute contempt of court, or”,

and

- (b) by inserting the following subsections after subsection (1):

“(1A) A head may refuse to grant a request under section 7 if the record concerned relates to the appointment or proposed appointment, or the business or proceedings, of—

- (a) a tribunal to which the Tribunals of Inquiry (Evidence) Act 1921 applies,
- (b) any other tribunal or other body or individual appointed by the Government or a Minister of the Government to inquire into specified matters at least one member, or the sole member, of which holds or has held judicial office or is a barrister or a solicitor, or
- (c) any tribunal or other body or individual appointed by either or both of the Houses of the Oireachtas to inquire into specified matters,

and the request is made at a time when it is proposed to appoint the tribunal, body or individual or at a time when the performance of the functions of the tribunal, body or individual has not been completed.

(1B) Subsection (1A) does not apply to a record in so far as it relates to the general administration of, or of any offices of, a tribunal or other body or an individual specified in that subsection.”.

**18.—Section 23 of the Principal Act is amended—**

Amendment of section 23 (law enforcement and public safety) of Principal Act.

- (a) in subsection (1), by inserting the following paragraph before paragraph (b):

“(aa) endanger the life or safety of any person,”

S.18

and

(b) in subsection (2), by inserting “(aa),” before “(a), (b) or (c)”;

and the said subsection (2), as so amended, is set out in the Table to this section.

## TABLE

(2) Where a request under section 7 relates to a record to which subsection (1) applies, or would, if the record existed, apply, and the head concerned is satisfied that the disclosure of the existence or non-existence of the record would have an effect specified in paragraph (aa), (a), (b) or (c) of that subsection, he or she shall refuse to grant the request and shall not disclose to the requester concerned whether or not the record exists.

Amendment of section 24 (security, defence and international relations) of Principal Act.

**19.**—Section 24 of the Principal Act is amended—

(a) in subsection (1), by deleting “(and, in particular, but without prejudice to the generality otherwise of this subsection to a record to which subsection (2) applies)”, and

(b) in subsection (2), by substituting “A head shall refuse to grant a request under section 7 if the record concerned” for “This subsection applies to a record that”;

and the said subsection (1) (other than paragraphs (a) to (d)), as so amended, is set out in the Table to this section.

## TABLE

(1) A head may refuse to grant a request under section 7 in relation to a record if, in the opinion of the head, access to it could reasonably be expected to affect adversely—

Amendment of section 25 (conclusiveness of certain decisions pursuant to sections 23 and 24) of Principal Act.

**20.**—(1) Section 25 of the Principal Act is amended in subsection (7) by the substitution of the following paragraph for paragraph (a):

“(a) Subject to paragraph (b), the Taoiseach, jointly with any other Ministers of the Government standing prescribed under subsection (6), shall as soon as may be after the expiration of each period of 12 months (or such other period not exceeding 24 months in length as may be prescribed) beginning with the period from the commencement of section 20(1) of the *Freedom of Information (Amendment) Act 2003* review the operation of subsection (1) during that period.”.

(2) *Subsection (1)* shall come into operation upon the expiration of the period of 6 months referred to in paragraph (a) of section 25(7) of the Principal Act during which this Act is passed but, notwithstanding that subsection, the review referred to in the said paragraph (a) shall be carried out in respect of that period.

Amendment of section 26 (information obtained in confidence) of Principal Act.

**21.**—Section 26 of the Principal Act is amended—

(a) in subsection (1), in paragraph (a), by substituting “given to a public body” for “given to the public body concerned”;

and the said subsection (1) (other than paragraph (b)), as so amended, is set out in the Table to this section,

and

S.21

(b) by inserting the following subsection after subsection (3):

“(4) Where—

(a) a request under section 7 relates to a record to which subsection (1) applies but to which subsections (2) and (3) do not apply or would not, if the record existed, apply, and

(b) in the opinion of the head concerned, the disclosure of the existence or non-existence of the record would have an effect specified in subsection (1),

he or she shall refuse to grant the request and shall not disclose to the requester concerned whether or not the record exists.”.

## TABLE

(1) Subject to the provisions of this section, a head shall refuse to grant a request under section 7 if—

(a) the record concerned contains information given to a public body in confidence and on the understanding that it would be treated by it as confidential (including such information as aforesaid that a person was required by law, or could have been required by the body pursuant to law, to give to the body) and, in the opinion of the head, its disclosure would be likely to prejudice the giving to the body of further similar information from the same person or other persons and it is of importance to the body that such further similar information as aforesaid should continue to be given to the body, or

**22.**—Section 27 of the Principal Act is amended—Amendment of  
section 27  
(commercially  
sensitive  
information) of  
Principal Act.

(a) in subsection (2), in paragraph (e), by substituting “environment,” for “environment.” and by adding the following to that subsection after that paragraph:

“but, in a case falling within paragraph (a) or (c), the head shall ensure that, before granting the request, the identity of the requester or, as the case may be, the consent of the person is established to the satisfaction of the head.”,

and the said subsection (2) (other than paragraphs (b), (d) and (e)), as so amended, is set out in the Table to this section,

and

(b) by inserting the following subsection after subsection (3):

“(4) Where—

(a) a request under section 7 relates to a record to which subsection (1) applies but to which subsections (2) and (3) do not apply or would not, if the record existed, apply, and

(b) in the opinion of the head concerned the disclosure of the existence or non-existence of the record would have an effect specified in subsection (1),

S.22

he or she shall refuse to grant the request and shall not disclose to the requester concerned whether or not the record exists.”.

## TABLE

(2) A head shall grant a request under section 7 to which subsection (1) relates if—

(a) the person to whom the record concerned relates consents, in writing or in such other form as may be determined, to access to the record being granted to the requester concerned,

(c) the record relates only to the requester,

but, in a case falling within paragraph (a) or (c), the head shall ensure that, before granting the request, the identity of the requester or, as the case may be, the consent of the person is established to the satisfaction of the head.

Amendment of section 28 (personal information) of Principal Act.

**23.**—Section 28 of the Principal Act is amended by inserting the following subsections after subsection (5):

“(5A) Where—

(a) a request under section 7 relates to a record to which subsection (1) applies but to which subsections (2) and (5) do not apply or would not, if the record existed, apply, and

(b) in the opinion of the head concerned the disclosure of the existence or non-existence of the record would have the effect specified in subsection (1),

he or she shall refuse to grant the request and shall not disclose to the requester concerned whether or not the record exists.

(5B) Notwithstanding paragraph (a) of subsection (2), a head shall, subject to paragraphs (b) to (e) of that subsection and subsections (5) and (6), refuse to grant a request under section 7 if, in the opinion of the head, access to the record concerned would, in addition to involving the disclosure of personal information relating to the requester, also involve the disclosure of personal information relating to an individual or individuals other than the requester.”.

Amendment of section 29 (procedure in relation to certain requests under section 7 to which section 26, 27 or 28 applies) of Principal Act.

**24.**—Section 29 of the Principal Act is amended by inserting the following subsection after subsection (2):

“(2A) (a) The head may, as respects a request to which this section applies received by him or her, extend the period specified in subsection (2) for compliance with that subsection by such period as he or she considers necessary but not exceeding a period of 2 weeks if in the opinion of the head—

(i) the request relates to such number of records, or

(ii) the number of persons required by subsection (2) to be notified of the matters referred to in paragraphs (i) to (iii) of that subsection is such,

that compliance with that subsection within the period specified therein is not reasonably possible.



(b) Where a period is extended under this subsection, the head concerned shall cause notice in writing, or in such other form as may be determined, to be given to the requester concerned, before the expiration of the period, of the extension and the period thereof and reasons therefor. S.24

(c) The reference in subsection (2) to 2 weeks shall be construed in accordance with any extension under this subsection of that period.”.

**25.**—Section 33 of the Principal Act is amended, in subsection (4), by substituting the following paragraph for paragraph (b):

“(b) Paragraph 5 of the Second Schedule shall not have effect in relation to remuneration in a case where the person who holds the office of Commissioner also holds the office of Ombudsman.”.

Amendment of section 33 (establishment of office of Information Commissioner) of Principal Act.

**26.**—Section 34 of the Principal Act is amended—

(a) in subsection (1), by inserting the following paragraph after paragraph (d):

“(dd) a decision to refuse to grant a request under section 7 on the ground that, by virtue of section 46, this Act does not apply to the record concerned,”.

Amendment of section 34 (review by Commissioner of decisions) of Principal Act.

(b) by substituting the following subsection for subsection (3):

“(3) A decision under subsection (2) shall be made as soon as may be and, in so far as practicable, not later than 4 months after the receipt by the Commissioner of the application for the review concerned.”.

and

(c) in subsection (4), in paragraph (a), by inserting “or, in a case in which the Commissioner is of opinion that there are reasonable grounds for extending that period, the expiration of an additional period of such length as he or she may determine” after “relevant person concerned”.

and the said subsection (4) (other than paragraph (b)), as so amended, is set out in the Table to this section.

#### TABLE

(4) An application under subsection (2) shall be made—

(a) if it relates to a decision specified in paragraph (d) or (f) of subsection (1), not later than 2 weeks after the notification of the decision to the relevant person concerned or, in a case in which the Commissioner is of opinion that there are reasonable grounds for extending that period, the expiration of an additional period of such length as he or she may determine, and

[No. 9.] *Freedom of Information* [2003.]  
(Amendment) Act 2003.

Amendment of section 42 (appeal to High Court) of Principal Act.

**27.**—Section 42 of the Principal Act is amended—

(a) by substituting the following subsection for subsection (4):

“(4) An appeal under subsection (1), (2) or (3) shall be initiated not later than 8 weeks after notice of the decision concerned was given to the person bringing the appeal.”,

(b) in subsection (6), by adding the following paragraph after paragraph (b):

“(c) The Supreme Court may order that some or all of the costs of a person (other than a head) in relation to an appeal to that Court from a decision of the High Court under this section be paid by the public body concerned if it considers that a point of law of exceptional public importance was involved in the appeal and, but for this paragraph, that Court would not so order.”,

and

(c) by deleting subsection (8).

Amendment of section 43 (precautions by High Court and Commissioner against disclosure of certain information) of Principal Act.

**28.**—Section 43 of the Principal Act is amended by substituting the following subsection for subsection (3):

“(3) In the performance of his or her functions under this Act, the Commissioner shall take all reasonable precautions (including conducting the whole or part of a review under section 34 or an investigation under section 36 otherwise than in public) to prevent the disclosure to the public or, in the case of such a review, to a party (other than a head) to the proceedings concerned of information specified in paragraph (a) or (b) of subsection (1) or matter that, if it were included in a record, would cause the record to be an exempt record.”.

Amendment of section 46 (restriction of Act) of Principal Act.

**29.**—Section 46 of the Principal Act is amended in subsection (1) by inserting the following paragraphs before paragraph (e):

“(da) a record held by a public body relating to the costing, assessment or consideration of any proposal of a political party carried out for or on behalf of that party,

(db) a record given by a public body to a member of the Government or a Minister of State for use by him or her for the purposes of any proceedings in either House of the Oireachtas or any committee of either or both of such Houses or any subcommittee of such a committee (including such proceedings in relation to questions put by members of either such House to members of the Government or Ministers of State (whether answered orally or in writing)).”.

Amendment of section 47 (fees) of Principal Act.

**30.**—Section 47 of the Principal Act is amended by inserting the following after subsection (6):

“(6A) (a) A fee of such amount (if any) as may be prescribed shall be charged by the public body concerned and paid by the requester or, as the case may be, the applicant, concerned to the body in respect of a

[2003.]

*Freedom of Information  
(Amendment) Act 2003.*

[No. 9.]

request under section 7 or an application under S.30 section 14 or 34.

- (b) A fee under this subsection shall be paid at the time of the making of the request or application concerned and, if it is not so paid, the head concerned or, as the case may be, the Commissioner shall refuse to accept the request or application, and it shall be deemed, for the purposes of this Act, not to have been made.
- (c) A fee under this subsection shall not be charged if the record or records concerned contains or contain only personal information relating to the requester or, as the case may be, the applicant.
- (d) Fees of different amounts may be prescribed under paragraph (a) in respect of different classes of requester or different classes of applicant.
- (e) Subsection (2) does not apply to a fee under this subsection.”.

**31.**—The Second Schedule to the Principal Act is amended by substituting the following paragraph for paragraph 4:

Amendment of  
Second Schedule to  
Principal Act.

“4. A person who holds the office of Commissioner shall not hold any other office or employment in respect of which emoluments are payable (other than the office of Ombudsman) or be a member of the Reserve Defence Force.”.

**32.**—(1) This Act may be cited as the Freedom of Information (Amendment) Act 2003.

Short title and  
collective citation.

(2) The Freedom of Information Act 1997 and this Act may be cited together as the Freedom of Information Acts 1997 and 2003.