

# Freedom of Information Act, 1997

## Preamble

The *Freedom of Information Act (FOI), 1997*, establishes three new statutory rights:

- a legal right for each person to access information held by public bodies;
- a legal right for each person to have official information relating to him/herself amended when it is incomplete, incorrect or misleading; and
- a legal right to obtain reasons for decisions affecting oneself.

The Act asserts the right of members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy of individuals.

This reference book has been prepared and published in accordance with the requirements set out in Section 15 and Section 16 of the FOI Act. Its purpose is to facilitate access to official information held by the Broadcasting Commission of Ireland (formerly the IRTC) by outlining its structure and functions; details of the services it provides and how they may be availed of; information on the classes of records it holds; details of the rules, procedures, practices, guidelines and interpretations used by the Commission for the purpose of certain decisions, determinations and recommendations and information on how to make a request to the Commission under the *Freedom of Information Act, 1997*.

## **Routinely Available Information**

The Broadcasting Commission of Ireland (BCI) currently makes information routinely available to the public in relation to its functions, activities and schemes. Such information will continue to be available informally without the need to use the Freedom of Information Act, 1997. This reference book highlights, in relation to each of the Commission's activities, where information of this nature is available.

The Freedom of Information Act, 1997, is designed to allow public access to information held by public bodies, which is **not** routinely available through other sources. Access to the information under the Act is subject to certain exemptions and involves specific procedures and time limits. This reference book provides a guide to the structure of the Commission so as to assist you in accessing information under the Freedom of Information of Act, 1997.

The Commission also performs an advisory and information role for those involved in the broadcasting sector and for the public at large. Publications and documents routinely available are listed in Part II of this guide in paragraph 2.3 e.

## **Requirements of Section 15 and 16 of the FOI Act, 1997**

### Section 15

Section 15 of the *Freedom of Information Act, 1997*, requires the publication of data regarding the Commission's functions and information held by it. These are set out in Part II of this reference book.

### Section 16

Section 16 of the *Freedom of Information Act, 1997*, requires the publication of information regarding rules and practices in relation to certain decisions by public bodies. These are set out in Part III of this reference book, which sets out the rules, procedures, practices, guidelines, interpretations and precedents used for the purpose of decisions, determinations or recommendations under the schemes operated by this Commission.

### **Confidentiality**

The Commission undertakes to use its best endeavours to hold confidential any information provided to it in confidence, subject to the Commission's obligations under law, including the *Freedom of Information Act, 1997*, which comes into force on 21<sup>st</sup> October, 2000. Any person wishing that any of the information supplied to this Commission should not be disclosed because of its sensitivity, should, when providing the information, identify the same and specify reasons for its sensitivity. The Commission will consult about this sensitive information before making a decision on any Freedom of Information request received.

### Part I: Access to Information

#### **1.1 Applications under the Act**

Under the FOI Act, anyone is entitled to apply for access to information not otherwise publicly available. Each person has a right of:

- access to records held by the Commission,
- correction of personal information relating to oneself held by the Commission where it is inaccurate, incomplete or misleading,
- access to reasons for decisions made by the Commission directly affecting oneself.

The following records come within the scope of the Act:

- all records relating to personal information held by the Commission irrespective of when created,
- all other records created from commencement date 21<sup>st</sup> April 1998,
- any other records necessary to the understanding of a current record,
- personnel records of serving staff created from the 21<sup>st</sup> April, 1995 and those created prior to that date where they are being used or they are proposed to be used in a way which adversely affects or may affect the person involved.

***The Commission is obliged to respond to a request within 4 weeks.***

Applications for information under the FOI Act should be addressed to:

FOI Officer,  
Broadcasting Commission of Ireland,  
2 - 5 Warrington Place,  
Dublin 2.

Tel: (01) 644 1200 Fax (01) 676 0948

Applications should be in writing and should indicate that the information is sought under the Freedom of Information Act. If information is desired in a particular form i.e. photocopy, computer disk etc. this should also be specified in your application. Please give as much detail as possible to enable the staff of the Commission to identify the record. If you have difficulty in identifying the precise records that you require, the staff of the Commission will be happy to assist you in preparing the request. You may be required to prove your identity, especially when seeking personal information, so you may, therefore, be asked to produce your Birth Certificate, Driving Licence, Passport or other form of identity. Please include a day time telephone number so that you may be contacted if it is necessary to clarify details of your request.

## **1.2 Rights of Review and Appeal:**

The FOI Act sets out a series of exemptions to protect sensitive information where its disclosure may damage key interests of the State or of third parties. Where the Commission invokes these provisions to withhold information, the decision may be appealed. Decisions in relation to deferral of access, charges, forms of access etc. may also be the subject of appeal. Details of the appeals mechanisms are as follows:

**1.2.1 Internal Review:** You may seek internal review of the initial decision, which will be carried out by an official at a higher level if:

- a. you are dissatisfied with the initial response received i.e. refusal of information, form of access, charges, etc., or
- b. you have not received a reply within 4 weeks of your initial application. This is deemed to be a refusal of your request and allows you to proceed to internal review.

Requests for internal review should be submitted in writing to:

FOI Internal Reviewer,  
Broadcasting Commission of Ireland,  
2 - 5 Warrington Place,  
Dublin 2.

Tel: (01) 676 0966 Fax: (01) 676 0948

Such a request for internal review must be submitted within 4 weeks of the initial decision. The Commission must complete the review within 3 weeks. Internal review must normally be completed before an appeal may be made to the Information Commissioner.

**1.2.2 Review by the Commissioner:** Following completion of internal review, you may seek independent review of the decision from the Information Commissioner. Also, if you have not received a reply to your application for internal review within 3 weeks, this is deemed to be a refusal and you may appeal the matter to the Commissioner.

Appeals in writing may be made directly to the Information Commissioner at the following address:

Office of the Information Commissioner,  
18 Lower Leeson Street,  
Dublin 2.

Tel: (01) 678 5222 Fax: (01) 661 0570

E-mail: [ombudsman@ombudsman.irlgov.ie](mailto:ombudsman@ombudsman.irlgov.ie)

### **1.3 Fees**

Pursuant to Section 47 of the Freedom of Information Act, 1997, fees may be charged as follows:

- in respect of personal records, fees in respect of the cost of copying the records requested will not apply, save where a large number of records are involved.
- in respect of other (non-personal) information, fees may be charged in respect of the time spent in efficiently locating and retrieving records, based on a standard hourly rate, to be prescribed by the Minister for Finance. No charges may apply in respect of the time spent by public bodies in considering requests.

A deposit may be payable where the total fee is likely to exceed €50. In these circumstances, the Broadcasting Commission of Ireland must, if requested, assist the member of the public to amend the request so as to reduce or eliminate the amount of the deposit.

#### ***Charges may be waived in the following circumstances:***

- where the cost of collecting and accounting for the fee would exceed the amount of the fee;
- where the information would be of particular assistance to the understanding of an issue of national importance; or,
- in the case of personal information, where such charges would not be reasonable having regard to the means of the requester.

The Commission will adhere to any guidelines set out by the Department of Finance in relation to the charging of fees. For further information please contact:

Freedom of Information Officer,  
Broadcasting Commission of Ireland,  
2 - 5 Warrington Place,  
Dublin 2.

Tel: 01 644 1200

From 7 July 2003, the standard fee payable for each request is €15.

A fee of €75 must accompany an application for an internal review.

A fee of €150 must accompany an application to the Information Commissioner.