

Freedom of Information Act

Sections 15 and 16 Reference Books

Guide to NSB Functions, Records, Rules and Practices

National Statistics Board

March 2004

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Abbreviations

| | |
|-------|--|
| CSO | Central Statistics Office |
| FOI | Freedom of Information |
| HSA | Health and Safety Authority |
| ICMSA | Irish Creamery Milk Suppliers' Association |
| ICTU | Irish Congress of Trade Unions |
| NSB | National Statistics Board |
| SGSES | Steering Group on Social and Equality Statistics |

Chairperson's Preface

The National Statistics Board (NSB) is responsible to Government for developing its statistical strategy and this is done through the publication of strategic plans, the latest of which is *Strategy for Statistics, 2003-2008*. This responsibility includes setting priorities for the compilation and development of official statistics in Ireland, and for guiding the strategic direction of the Central Statistics Office (CSO). The NSB guides the implementation of these strategies by the CSO, which is the primary provider of statistical information in Ireland. Progress on the implementation of these strategies is reported in annual or biennial Board reports¹.

The Freedom of Information (FOI) Act, 1997 was applied to the NSB from 1 June 2002. Accordingly, these Section 15 and 16 Reference Books have been prepared to make details of the Board's activities more readily available.

The Board's 2003-2008 strategy seeks to meet new and emerging national demands for data to monitor economic and social change and increasing international data demands. In the context of the information age, this strategy covers a broader range of statistics than was covered in the preceding plans. The new strategic plan and other Board publications are available on the Board website (<http://www.nsb.ie>).

Brendan Walsh
Chairperson

¹ See list of publications in Appendix 1.

1 How the Act operates in the NSB

1.1 Introduction

The Freedom of Information (FOI) Act, 1997 establishes three 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 where it is incomplete, incorrect or misleading; and
- ◆ a legal right to obtain reasons for decisions affecting oneself.

The FOI Act asserts, subject to specified exemptions, the right of the public to obtain access to information held by Government Departments, Offices and certain public bodies to the greatest extent possible consistent with the public interest and the right to privacy of individuals.

These reference books have been prepared and published in accordance with the requirements of Sections 15 and 16 of the Act.

- ◆ They set out the structure of the National Statistics Board (NSB) and the procedure for making a request to the NSB to access information. Access is subject under the act to certain exemptions and specific procedures and time limits apply.
- ◆ They outline the functions of the Board and the classes of records held.
- ◆ In accordance with the terms of Section 16 of the Act, information on the rules, practices, and procedures used by the Board is also contained within these Reference Books.

1.2 Availability of Information

The Board routinely provides information to the public in relation to its functions and activities (see Appendix 1). The FOI Act is designed to allow public access to information held by public bodies which is not routinely available.

A glossary of some NSB terminology is given in Appendix 3 as the Board may describe aspects of its work and information holdings in terms that may not be familiar to the general public.

1.3 Applications under the FOI Act

Under the FOI Act, which was applied to the NSB from 1 June 2002, anyone is entitled, subject to the specified exemptions, to apply for access to information not otherwise publicly available. Each person has a right of:

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

The following NSB records come within the scope of the Act:

- ◆ all records relating to personal information held by the Board irrespective of when created;
- ◆ all other records created from 1 June 2002;
- ◆ any other records necessary to the understanding of a current record.

The NSB is obliged to respond to the request within four weeks of receipt.

Applications for information under the Act should be addressed to:

| | | |
|-------------------|--------|----------------------------|
| FOI Officer (NSB) | Phone | 01 498 4201 / 021 453 4201 |
| c/o CSO | LoCall | 1890 313 414 |
| Ardee Road | Fax | 01 498 4229 |
| Dublin 6 | E-mail | nsb@cso.ie |

Applications² should be in writing (e-mail applications are accepted) and should indicate that the information is being sought under the Freedom of Information Act. As much detail as possible should be given to enable the staff of the Board to identify the record. If an applicant has difficulty in identifying the precise records required, the NSB Secretary can assist.

The NSB Secretary is available to provide assistance to persons to exercise their rights under the FOI Act (e.g. accepting oral requests from requesters who are unable to read, print and/or write, enabling the requester to inspect or have records explained to him or her).

1.4 Charging of Fees

The following fees apply to FOI requests under section 7 of the FOI Act (requests for access to records) and applications under section 14 (internal review) and 34 (review by Information Commissioner):

Requests for records

A standard application fee of **€15** must accompany an FOI request under section 7 for a record or records containing non-personal information.

A reduced fee of **€10** applies if the person making such a request is covered by a medical card.

² An FOI explanatory leaflet and application form are reproduced in Appendices 3 and 4

The following requests/applications are exempt:

- ◆ a request under section 7 for a record or records containing only personal information related to the requester;
- ◆ an application under section 17 (right of amendment of records relating to personal information); and
- ◆ an application under section 18 (right of person to information regarding acts of public bodies affecting the person).

Internal Review

A standard fee of **€75** must accompany an application for internal review under section 14.

A reduced fee of **€25** applies if the person bringing the application is a medical card holder or a dependant of a medical card holder.

The following internal review applications are exempt:

- ◆ an application in relation to a decision concerning records containing only personal information related to the applicant;
- ◆ an application in relation a decision under section 17 (right of amendment of records relating to personal information);
- ◆ an application in relation to a decision under section 18 (right of person to information regarding acts of public bodies affecting the person); and
- ◆ an application in relation to a decision to charge a fee or deposit, or a fee or deposit of a particular amount.

Review by Information Commissioner

- A standard fee of **€150** must accompany applications to the Information Commissioner for review of decisions made by public bodies under section 34.
- A reduced fee of **€50** applies if:
 - ◆ the person bringing the application is a medical card holder or a dependant of a medical card holder; and
 - ◆ the person is specified in section 29(2) i.e. a third party with the right to apply directly to the Information Commissioner where a public body decides to release their information on public interest grounds.
- The following applications to the Information Commissioner are exempt:
 - ◆ an application concerning records containing only personal information related to the applicant;

- ◆ an application in relation a decision under section 17 (right of amendment of records relating to personal information);
- ◆ an application in relation to a decision under section 18 (right of person to information regarding acts of public bodies affecting the person);
- ◆ an application in relation to a decision to charge a fee or deposit exceeding €25.00 under section 47 in respect of search and retrieval and photocopying of records (decisions in relation to the charging of fees or deposits for search and retrieval and/or photocopying of less than €25 are not subject to review by the Information Commissioner); and
- ◆ an application in relation to a decision to charge a fee under section 47(6A), or a fee of a particular amount under section 47(6A), on the grounds that the records concerned do not contain only personal information related to the requester or the requester is not a medical card holder or a dependant of a medical card holder.

1.5 Waiving of Fees

Fees 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
- ◆ where, in the case of personal information, such charges would not be reasonable having regard to the means of the requester.

1.6 Right of Review and Appeal

The 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 a Department/Office 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 review and appeal mechanisms are specified below.

1.7 Internal Review

An applicant may seek internal review of the initial decision made by the Board not to provide the requested record. This will be carried out by the Director General of the CSO (who is an ex officio member of the Board) if the person:

- ◆ is dissatisfied with the initial response received (e.g. refusal of information, form of access, charges, etc.); or

- ◆ has not received a reply within 4 weeks of receipt of the initial application (this is deemed to be a refusal of the request and allows the applicant to proceed to internal review).

Requests for internal review should be submitted in writing to:

| | | |
|------------------|--------|----------------------------|
| Director General | Phone | 01 498 5113 / 021 453 5113 |
| c/o CSO | LoCall | 1890 313 414 |
| Skehard Road | Fax | 021 453 5117 |
| Cork | E-mail | nsb@cso.ie |

A request for internal review must be submitted within 4 weeks of the date of notification of the initial decision or within 8 weeks of receipt of the initial application if the requester has not received a reply within 4 weeks of receipt of the initial application.

The Board must complete the review within 3 weeks of receipt of the application for internal review. An internal review must normally be completed before an appeal may be made to the Information Commissioner.

1.8 Review by the Information Commissioner

If dissatisfied with the outcome of the internal review, a person may seek an independent review of the decision from the Information Commissioner. The failure to reply to an application for internal review within 3 weeks of receipt of the request for internal review is deemed to be a refusal and the matter can be appealed to the Commissioner.

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

| | | |
|--|--------|-------------------------|
| Information Commissioner | Phone | 01 678 5222 |
| Office of the Information Commissioner | LoCall | 1890 223 030 |
| 18 Lower Leeson Street | Fax | 01 661 0570 |
| Dublin 2 | E-mail | foi@ombudsman.irlgov.ie |

2 Guide to Functions and Records held — Section 15 Reference Book

2.1 Historical Perspective

In May 1984 the Taoiseach established a Statistical Council under the 1926 Statistics Act to advise on what steps might be taken to improve arrangements for meeting statistical needs. Based on the recommendations of the Council, and a July 1985 National Economic and Social Council (NESC) report *Information for Policy*, the Government published a white paper entitled *A New Institutional Structure for the Central Statistics Office* in October 1985.

Among other recommendations, this publication proposed the establishment of a National Statistics Board with the essential function of guiding the strategic direction of the CSO. The Board was initially set up on a non-statutory basis in 1986. It was established on a statutory basis when the Statistics Act, 1993 came into operation in November 1994.

2.2 Functions

Section 19 of the Statistics Act, 1993 describes the functions of the Board:

- (1) The function of the National Statistics Board in guiding, with the agreement of the Taoiseach, the strategic direction of the [Central Statistics] Office shall include in particular –
 - (a) establishing priorities for the compilation and development of official statistics;
 - (b) assessing the resources of staff, equipment and finance which should be made available for the compilation of official statistics;
 - (c) arbitrating, subject to the final decision of the Taoiseach, on any conflicts which may arise between the Office and other public authorities relating to the extraction of statistics from records or to the co-ordination of statistical activities.
- (2) The Director General shall provide such information as may be required by the Board for the proper exercise of its functions.
- (3) Nothing in subsection (1) or (2) of this section shall be construed as –
 - (a) enabling the Board to exercise any power or control in relation to the performance, in a particular case or in particular circumstances, of a function assigned to the Director General by or under this Act;
 - (b) authorising appointed members of the Board to have access to information collected under this Act which can be directly or indirectly related to an identifiable person or undertaking.

2.3 Classes of Records

The main classes of records held by the NSB relate to:

- ◆ minutes and documents pertaining to meetings of the NSB;
- ◆ documents regarding the membership of and appointment to the NSB;
- ◆ documents pertaining to stipends paid to Board members;
- ◆ documents in relation to the interface between the NSB and the CSO;
- ◆ documents in regard to the interface between the NSB and the Department of the Taoiseach;
- ◆ documents in relation to:
 - the establishment of priorities for the compilation and development of official statistics;
 - the assessment of the resources of staff, equipment and finance which should be made available for the compilation of official statistics; and
 - the arbitration, subject to the final decision of the Taoiseach, on any conflicts which may arise between the CSO and other public authorities relating to the extraction of statistics from records or to the co-ordination of statistical activities.
- ◆ documents in regard to surveys of users of CSO data; and
- ◆ publications issued by the NSB in relation to its functions and activities (see Appendix 1), which are available from the CSO website and may also be viewed in the CSO library.

3 Rules, Practices and Procedures — Section 16 Reference Book

3.1 Board Composition

The Board has eight members. Five persons are nominated, two by the Taoiseach and three by organisations representative of the users of official statistics and providers of information under the Act. Two are senior representatives of the Department of Finance and Department of the Taoiseach. The Director General of the CSO is an ex officio member of the Board.

The Chairperson of the NSB is appointed by the Taoiseach from among the five nominated members of the Board. The Secretary of the NSB is appointed by the CSO.

Section 18 of the Statistics Act, 1993 describes the composition of the Board and procedures for appointing Board members:

- (1) The National Statistics Board shall consist of eight members comprising the following seven persons who shall be appointed by the Taoiseach –
 - (a) five persons of proven ability and experience in relevant fields, two of whom shall be nominated by the Taoiseach and three of whom shall be nominated by such organisation or organisations as the Taoiseach considers to be representative of the users of official statistics and providers of information under this Act,
 - (b) an Assistant Secretary or equivalent or higher grade in the Department of the Taoiseach, and
 - (c) an Assistant Secretary or equivalent or higher grade in the Department of Finance,together with the Director General, ex officio.
- (2) The Chairman of the National Statistics Board shall be appointed by the Taoiseach from among the members of the Board appointed under subsection (1) (a) of this section.
- (3) Every member of the Board appointed by the Taoiseach shall be appointed to hold office for such period, not being less than two or more than six years, as the Taoiseach may specify when appointing him.
- (4) A member of the National Statistics Board may be reappointed.
- (5) A member of the Board appointed by the Taoiseach may resign his office by letter addressed to the Taoiseach and may be removed from his office by the Taoiseach.
- (6) A member appointed under subsection (1) (b) or (c) of this section shall cease to hold office if he ceases to hold the relevant civil service position.
- (7) The Board may exercise its functions notwithstanding one or more vacancies in its membership.

- (8) The Board may regulate its own procedure.
- (9) The nominated members of the Board may be paid, out of moneys provided by the Oireachtas, such remuneration and allowances for expenses incurred by them as the Taoiseach, with the concurrence of the Minister for Finance, may determine.

3.2 Membership and Term of Appointment

The Board's membership as at February 2004 is:

| | | |
|-------------|-------------------------|---|
| Chairperson | Professor Brendan Walsh | Professor of Economics, University College Dublin |
| | Ms Paula Carey | Research Officer, Irish Congress of Trade Unions ³ |
| | Mr Ciarán Dolan | General Secretary, ICMSA |
| | Mr Frank Cuneen | Chairperson, Health and Safety Authority |
| | Mr Derek Moran | Assistant Secretary, Department of Finance |
| | Dr Pat O'Hara | Western Development Commission |
| | Ms Mary Doyle | Assistant Secretary, Department of the Taoiseach |
| | Mr Donal Garvey | Director General, CSO (ex officio member) |
| Secretary | Mr Gerry Brady | Senior Statistician, CSO |

All of the Board members have current terms of appointment from February 2004 for a period of two years (excluding Mr Garvey who is an ex officio member).

3.3 Financial

Payments of travel and subsistence expenses to nominated members of the Board are made in accordance with Circular Letter 11/82. These rates are set by the Department of Finance.

Fees for the Boards of most State Bodies fall into four categories. The NSB annual stipend fees are those applicable to group 4: €7,618.43 for the Chairperson and €5,078.95 for the other four nominated Board members.

3.4 Procurement Procedures

Supplies, services and works required by the NSB are generally procured by the CSO in accordance with the policy and rules set out in the Department of Finance's FOI Act Section 16 Reference Guide and in the booklet Public Procurement (1994 Edition), which is available from the Government Publications Sales Office, Molesworth Street, Dublin 2.

³ See abbreviations

In accordance with public policy, all such CSO procurements are made following competitive tendering. For procurement above certain thresholds, the Office requires the approval of the Government Contracts Committee (GCC) if the contract is not being awarded to the lowest tender.

In the case of large contracts for supplies and services the CSO complies with the rules set out in European procurement law – in particular:

- ◆ supplies contracts (over €139,312, net of VAT) are dealt with in accordance with EU Directive 93/36;
- ◆ services contracts (over €139,312, net of VAT) are dealt with in accordance with EU Directive 92/50/EEC.

Following the award of a contract, the criteria on which the selection was based are communicated to unsuccessful tenderers on request.

3.5 Payment Procedures

Internal procedures have been put in place in order to comply with the Prompt Payment of Accounts Act, 1997.

3.6 Engaging Consultants

All consultancy projects are put out to an appropriate competitive procedure and comply with the EU Services Directive 92/50/EEC (as amended by EU Directive 97/52/EC) threshold.

Appendices

Appendix 1 NSB Publications

Strategic Plans

| | |
|----------------|-----------------------------------|
| May 1988 | Strategy for Statistics 1988–1992 |
| July 1993 | Strategy for Statistics 1993–1997 |
| September 1998 | Strategy for Statistics 1998–2002 |
| July 2003 | Strategy for Statistics 2003–2008 |

Progress Reports

| | |
|--------------|---|
| June 1989 | Implementation of Strategy for Statistics 1988–1992: 1989 Annual Report |
| July 1990 | Implementation of Strategy for Statistics 1988–1992: 1990 Annual Report |
| October 1996 | Implementation of Strategy for Statistics 1993–1997: 1995 Annual Report |
| May 1998 | Implementation of Strategy for Statistics 1993–1997: Progress Report, 1996-1997 |
| July 1999 | Implementation of Strategy for Statistics 1998–2002: Progress Report, 1998 |
| April 2002 | Implementation of Strategy for Statistics 1998–2002: Progress Report, 1999-2000 |
| July 2002 | Implementation of Strategy for Statistics 1998–2002: Progress Report, 2001 |
| July 2003 | Implementation of Strategy for Statistics 1998–2002: Progress Report, 2002 |

Other Publications

| | |
|--------------|--|
| January 2003 | Survey of CSO Users 2002 |
| April 2003 | Developing Irish Social and Equality Statistics to meet Policy Needs |
| March 2004 | Best Practice Guidelines for the Development and Implementation of formal Data/Statistics Strategies in Government Departments |

Appendix 2 Glossary

| Term | Explanation |
|------------------------------|---|
| Aggregated data | Aggregations of data which do not allow the direct or indirect identification of information relating to individual survey respondents (i.e. persons, households, business enterprises or branches). |
| Anonymised microdata | Data relating to individual survey respondents, from which all information (i.e. name, address, reference numbers, location codes, business description, etc.) which might allow them to be directly or indirectly identified is deleted. |
| Administrative data | Data extracted from the administrative systems of public bodies used for statistical purposes. |
| Classification | A statistical system for systematically breaking a particular attribute or characteristic into non-overlapping meaningful sub-categories (e.g. occupations, economic activity, marital status, household tenure, etc.); these are generally standardised at European Union (EU) and United Nations (UN) to allow international comparisons. |
| DAPs | Divisional action programmes agreed on an annual basis for the implementation of the CSO's Statement of Strategy. |
| Delivering Better Government | Government programme to modernise the civil service as part of its Strategic Management Initiative (SMI). |
| Directive | A legal instrument agreed by the EU Council that has mandatory application on Member States. |
| Directorate | Director General and Directors of the CSO. |
| Division | An organisation unit in the CSO headed by a Senior Statistician or Principal Officer responsible for a particular statistical or administrative programme of activities. |
| EUROSTAT | The Statistical Office of the EU located in Luxembourg and responsible for the development and co-ordination of the European Statistical System. |
| Identifiable data | Information that allows the identification of the survey respondent or data provider that it relates to, to be determined either directly (e.g. by name, address, reference number) or indirectly (e.g. by some distinguishing feature such as business activity, size, location). |
| LBP | CSO Local Business Plans for the implementation of the CSO Statement of Strategy. |
| Liaison Group | A group that meets regularly in order to liaise with expert data users and producers so as to be advised of their needs and who are also in a position to advise the CSO on data issues. |
| Methodology | The design, sampling, definitions, classification, processing and estimation aspects of statistical operations. |

| Term | Explanation |
|-----------------------------|---|
| Microdata | Data relating to individual survey respondents and data subjects (i.e. individual data). |
| Official statistics | Statistics compiled by the CSO or any other public authority whether under the Statistics Act, 1993 or otherwise (Section 3, Statistics Act, 1993). |
| Request for tender | A request to commercial concerns to submit tenders for the provision of specified products or services. |
| SMC | Senior Management Committee comprised of the Director General, Directors, Personnel Officer and a Senior Statistician attending on a three month rotating basis. |
| SMG | The Senior Management Group consisting of all Heads of Divisions and the Directorate. |
| SPC | Statistical Programme Committee comprised of the Director Generals of EU national statistical services and EUROSTAT established by Council Decision 89/387. |
| Statistical confidentiality | The statutory guarantee provided that any identifiable information that the CSO obtains directly through surveys or indirectly from administrative records will be treated as strictly confidential (i.e. not divulged to any other Government Department or body) under national (Statistics Act, 1993) and EU legislation (Council Regulations 1588/90 and 322/97). |

Appendix 3 FOI Act, 1997 Explanatory Leaflet

The Freedom of Information Act, 1997 gives you the right to access records held by Government Departments, Offices and certain public bodies. To access records in the National Statistics Board (NSB), an application must be made in writing (accompanying form may be used) to:

FOI Officer (NSB), c/o CSO, Ardee Road, Dublin 6.

Applications by e-mail are also accepted (nsb@cso.ie). No reason need be given on why you want to see any records. The public body must give you an explanation if you are not given what you ask for. A decision on your application must normally be made within 4 weeks of receipt.

The NSB Secretary is available to provide assistance to persons to exercise their rights under the FOI Act (e.g. accepting oral requests from requesters who are unable to read, print and/or write, enabling the requester to inspect or have records explained to him or her).

You can ask, subject to the exemptions specified in the Act, for the following records:

- ◆ any records relating to you personally, whenever created;
- ◆ all other records created after 1 June 2002 not routinely available to the public.

A “record” can be a paper document, information held on computer, printouts, maps, plans, microfilm, microfiche, audio-visual material, etc.

Fees may be charged for the cost of photocopying personal information. Charges may apply in respect of the search and retrieval of other information. Details are available on request.

If you are not satisfied with the decision on an FOI request you may ask the NSB for an “internal review”. This will be carried out by the Director General of the CSO (who is an ex officio member of the Board). You will be told the outcome within 3 weeks of receipt of the application for internal review. If dissatisfied with this, you may ask for a review by:

The Information Commissioner, 18 Lower Leeson Street, Dublin 2.

Details of the classes of records held by the Board are published in a Reference Book as required under Sections 15 and 16 of the FOI Act. This may be consulted in the CSO libraries in Dublin and Cork, accessed on the NSB Internet site (<http://www.nsb.ie>) or obtained directly from the NSB.

For further information or assistance on the operation of the FOI Act within the NSB contact:

Gerry Brady, NSB Secretary, c/o CSO, Ardee Road, Dublin 6, 01 498 4201.

Appendix 4 FOI Act, 1997 Application Form

1. Applicant details (please use BLOCK capitals)

| | | | |
|------------|----------------------|---------------------------|----------------------|
| First Name | <input type="text"/> | Title | <input type="text"/> |
| | | (Mr./Ms./Mrs./Miss/Other) | |
| Surname | <input type="text"/> | | |
| Address | <input type="text"/> | | |
| | <input type="text"/> | | |

Phone - Work Home Fax

2. Are you making this request for an Organisation/Company (✓) ? Yes No

If Yes, state:

- Organisation/Company name
- Position you hold in it

3. Details of Request

In accordance with Section 7 of the Freedom of Information Act, 1997

(a) I request access to records containing (✓):

- Personal information relating to myself Non-personal information
(you may be asked to provide proof of your identity)

(b) relating to the following matter (*describe in as much detail as possible*):

(If insufficient space please attach a separate sheet containing additional information)

4. Form of Access Required (please tick ✓ in appropriate box)

photocopy of the record inspection of the record

other form of access: specify

Signature Date

Send the completed application form together with an application fee of €15 to:

*Freedom of Information Officer (NSB), c/o CSO, Ardee Road, Dublin 6
E-mail: nsb@cso.ie*

Phone queries to 01 498 4201 or 021 453 4201