



STATUTORY INSTRUMENTS.

**S.I. No. 218 of 2016**



FREEDOM OF INFORMATION ACT 2014 (SECTION 37(8))  
REGULATIONS 2016

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The Minister for Public Expenditure and Reform, in exercise of the powers conferred on him by section 3 of the Freedom of Information Act 2014 (No. 30 of 2014), hereby makes the following regulations:

*Citation*

1. These Regulations may be cited as the Freedom of Information Act 2014 (Section 37(8)) Regulations 2016.

*Interpretation*

2. In these Regulations a reference to a section is a reference to a section of the Freedom of Information Act 2014 (No. 30 of 2014).

*Revocation and transitional*

3. The Freedom of Information Act 1997 (Section 28(6)) Regulations 2009 (S.I. No. 387 of 2009), referred to in these Regulations as the “2009 Regulations”, are revoked but any action commenced under the 2009 Regulations shall continue to be performed and shall be completed after the commencement of these Regulations as if the 2009 Regulations had not been revoked.

*Disclosure of personal information permitted in two defined cases*

4. Notwithstanding section 37(1), an FOI request may be made for records which involves the disclosure of personal information (including personal information relating to a deceased individual), and shall, subject to the other provisions of the Freedom of Information Act 2014, be granted if the case falls—

- (a) within a case to which Regulation 5 applies and, in addition, the condition specified in Regulation 6 is satisfied, or
- (b) within a case to which Regulation 7 applies.

*First defined case in which disclosure permitted*

5. This Regulation applies to a case in which the requester is a parent or guardian of the individual to whom the record concerned relates and that individual belongs to one of the following classes of individual:

- (a) individuals who, on the date of the request, have not attained full age, or
- (b) individuals who have attained full age, being individuals who—
  - (i) at the time of the request have, or are subject to, a psychiatric condition, mental incapacity or severe physical disability, the

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 6th May, 2016.*

incidence and nature of which are certified by a registered medical practitioner, and

- (ii) by reason of that condition, incapacity or disability, are incapable of exercising their rights under the Act.

*Supplemental provision with respect to operation of first defined case*

6. The condition referred to in Regulation 4(a) is that the individual specified in Regulation 5 is an individual access to whose records would, in the opinion of the head having regard to all the circumstances, be in the individual's best interests.

*Second defined case in which disclosure permitted*

7. This Regulation applies to a case in which the individual to whom the record concerned relates is dead ("the individual") and either—

- (a) the requester concerned belongs to one or other of the following classes:
  - (i) a personal representative of the individual acting in due course of administration of the individual's estate or any person acting with the consent of a personal representative so acting,
  - (ii) a person on whom a function is conferred by law in relation to the individual or his or her estate acting in the course of the performance of the function, or
- (b) the requester is the spouse or the next of kin of the individual and, in the opinion of the head, having regard to all the circumstances, the public interest, including the public interest in the confidentiality of personal information, would on balance be better served by granting than by refusing to grant the request.

*Supplemental provision with respect to operation of second defined case*

8. For the purposes of Regulation 7:

"next of kin" means:

- (a) issue,
- (b) parent,
- (c) brother or sister,
- (d) a niece or nephew, or
- (e) any other person standing nearest in blood relationship to the individual in accordance with section 71(2) of the Succession Act 1965 (No.27 of 1965),

and Regulation 9 supplements this definition;

“personal representative” means a personal representative within the meaning of the Succession Act 1965;

“spouse” includes, in addition to a lawful spouse:

- (a) a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State, and a person who is living apart from his or her spouse pursuant to a deed of separation;
- (b) a man or woman who was not married to, but cohabited as a spouse with, the deceased individual; and
- (c) a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No.24 of 2010).

*Supplemental provision with respect to definition of “next of kin”*

9. The definition of “next of kin” in Regulation 8 shall operate so that, where more than one paragraph of it is applicable in a given case, the person falling within whichever paragraph is numerically the lowest shall alone be regarded as the next of kin of the individual concerned.



GIVEN under the Official Seal of the Minister for Public Expenditure and Reform,  
27 April 2016.

BRENDAN HOWLIN,  
Minister for Public Expenditure and Reform.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations prescribe the classes of individual whose records will be made available to parents and guardians, and the classes of requester to whom the records of deceased persons will be made available, having regard to relevant circumstances and to guidelines published by the Minister for Public Expenditure and Reform.

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