



STATUTORY INSTRUMENTS.

**S.I. No. 387 of 2009**



FREEDOM OF INFORMATION ACT, 1997 (SECTION 28(6))  
REGULATIONS, 2009.

**(Prn. A9/1331)**

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FREEDOM OF INFORMATION ACT, 1997 (SECTION 28(6))  
REGULATIONS, 2009.

I, BRIAN LENIHAN, Minister for Finance, in exercise of the powers conferred on me by sections 3 and 28(6) of the Freedom of Information Act, 1997 (No. 13 of 1997), hereby make the following Regulations:

1. These Regulations may be cited as the Freedom of Information Act, 1997 (Section 28(6)) Regulations, 2009.

2. In these Regulations a reference to a section is a reference to that section of the Freedom of Information Act, 1997 (No.13 of 1997).

3. Freedom of Information Act, 1997 (Section 28(6)) Regulations 1999 are hereby revoked.

4. (1) Notwithstanding section 28(1), a request under section 7 in relation to a record access to which involves the disclosure of personal information (including personal information relating to a deceased individual) shall, subject to the other provisions of the Freedom of Information Act, 1997, be granted where:

(a) 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:

(i) individuals who, on the date of the request, have not attained full age (within the meaning of the Age of Majority Act, 1985 (No. 2 of 1985)), or

(ii) individuals who have attained full age (within the meaning aforesaid), who at the time of the request have a mental condition or mental incapacity or severe physical disability, the incidence and nature of which is certified by a registered medical practitioner and who, by reason thereof, are incapable of exercising their rights under the Act,

being individuals specified in clauses (i) and (ii) access to whose records would, in the opinion of the head having regard to all the circumstances and to any guidelines drawn up and published by the Minister, be in their best interests, or

(b) the individual to whom the record concerned relates is dead (“the individual”) and the requester concerned belongs to one of the following classes of requester:

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 25th September, 2009.*

- (i) a personal representative of the individual acting in due course of administration of his or her 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, and
- (iii) the spouse or the next of kin of the individual where in the opinion of the head, having regard to all the circumstances and to any relevant guidelines published by the Minister, 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.

(2) In this Regulation, “spouse” includes:

- (a) a party to a marriage that has been dissolved, being a dissolution that is recognised as valid in the State, or who is living apart from his or her wife or husband pursuant to a deed of separation, and
- (b) a man or woman who was not married to but cohabited as husband or wife, as the case may be, with the deceased individual,

and,

“next of kin” is the person or persons standing nearest in blood relationship to the individual in accordance with section 71(2) of the Succession Act, 1965.



GIVEN under my Official Seal,  
23 September 2009.

BRIAN LENIHAN,  
Minister for Finance.

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 Finance.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
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