



STATUTORY INSTRUMENTS.

**S.I. No. 386 of 2009**



FREEDOM OF INFORMATION ACT 1997 (SECTION 18(5A))  
REGULATIONS 2009

**(Prn. A9/1330)**

S.I. No. 386 of 2009

FREEDOM OF INFORMATION ACT 1997 (SECTION 18(5A))  
REGULATIONS 2009

I, BRIAN LENIHAN, Minister for Finance, in exercise of the powers conferred on me by sections 3 and 18(5A) 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 18(5A)) Regulations 2009.

2. Freedom of Information Act 1997 (Section 18(5A)) Regulations 2003 are hereby revoked.

3. 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).

4. (1) An application under section 18 may, subject to the other provisions of the Freedom of Information Act 1997, be made where:

(a) the applicant is a parent or guardian of an individual ("the individual") who is affected by an act of a public body and has a material interest in a matter affected by the act or to which it relates and the individual belongs to one of the following classes of individual:

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

(ii) individuals who, on the date aforesaid, have attained full age (within the meaning aforesaid), and have a mental condition, or a mental incapacity, or a severe physical disability, the incidence and nature of which is certified by a registered medical practitioner (within the meaning of the Medical Practitioners Act 1978 (No. 4 of 1978)) and who, by reason thereof, are incapable of exercising their rights under the Freedom of Information Act 1997,

and the individual is an individual as respects whom the granting of the application would, in the opinion of the head concerned, having regard to all the circumstances and to any guidelines drawn up and published by the Minister, be in his or her best interests, or

(b) the individual ("the individual") is dead and the applicant concerned belongs to one of the following classes of applicant:

*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 certain classes of individuals who may apply under section 18 of the Freedom of Information Act 1997 (No. 13 of 1997) for information regarding acts of public bodies 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  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,  
CONTAE MHAIGH EO,  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)  
nó trí aon díoltóir leabhar.

---

DUBLIN  
PUBLISHED BY THE STATIONERY OFFICE  
To be purchased directly from the  
GOVERNMENT PUBLICATIONS SALE OFFICE  
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,  
or by mail order from  
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,  
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,  
(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)  
or through any bookseller.

---

€1.27

