

## **General Scheme of a Retention of Records Bill, 2015**

### **LONG TITLE**

BILL ENTITLED AN ACT TO PROVIDE FOR THE RETENTION OF THE RECORDS OF THE COMMISSION TO INQUIRE INTO CHILD ABUSE, THE RESIDENTIAL INSTITUTIONS REDRESS BOARD AND THE RESIDENTIAL INSTITUTIONS REDRESS REVIEW COMMITTEE, TO AMEND THE COMMISSION TO INQUIRE INTO CHILD ABUSE ACT, 2000, TO AMEND THE RESIDENTIAL INSTITUTIONS REDRESS ACT 2002 AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

#### ***Explanatory note***

*The Long Title of the Bill provides that the purpose of this legislation is to retain the records of the Commission to Inquire into Child Abuse, the Residential Institutions Redress Board and Residential Institutions Redress Review Committee, to amend the Commission to Inquire into Child Abuse Act, 2000 and the Residential Institutions Redress Act 2002 and to provide for related matters.*

## Arrangement of Heads

### Head

1. Short title, construction and collective citation.
2. Interpretation.
3. Retention of Records
4. Consequential Amendments
5. Restriction of Data Protection Act, 1988
6. Restriction of Freedom of Information Act, 2014
7. Expenses.

### Acts Referred to

Commission to Inquire into Child Abuse Act 2000	2000, No 7
Commission to Inquire into Child Abuse Acts 2000 and 2005	
Data Protection Act 1988	1988, No 25
Data Protection (Amendment) Act 2003	2003, No 6
Data Protection Acts 1988 and 2003	
Freedom of Information Act, 2014	2014, No 30
National Archives Act, 1986	1986, No 11
Residential Institutions Redress Act, 2002	2002, No 13
Residential Institutions Redress Acts 2002 to 2011	

**Head 1          Short title, construction and collective citation.**

Provide that:

- 1.(1) This Act may be cited as the Retention of Records Act 2014.
- (2) The Commission to Inquire into Child Abuse Acts 2000 and 2005 and section 4(1) may be cited together as the Commission to Inquire into Child Abuse Acts 2000 to 2014 and shall be read together as one.
- (3) The Residential Institutions Redress Act 2002 to 2011 and section 4(2) may be cited together as the Residential Institutions Redress Acts 2002 to 2014 and shall be read together as one.

***Explanatory Note***

*This Head provides for the short title of the Act and for the collective citation and constructions of the Acts being amended, if such provisions are considered necessary.*

## **Head 2 Interpretation**

Provide that:

In this Act, unless the context otherwise requires –

“Act of 2000” means the Commission to inquire into Child Abuse, Act, 2000:

“Act of 2002” means the Residential Institutions Redress Act, 2002;

“Director” means the Director of the National Archives within the meaning of the National Archives Act, 1986;

“record” has the meaning as in the Freedom of Information Act, 2014;

“relevant body” means the Commission to Inquire into Child Abuse, the Residential Institutions Redress Board or the Residential Institutions Redress Review Committee as the case requires.

### ***Explanatory Note***

*This Head provides for the necessary definitions for the Act.*

### **Head 3 Retention of Records**

Provide that:

3.—(1) Notwithstanding any other enactment, on the dissolution of a relevant body the records of that body, other than those records or classes of records which the Director certifies do not warrant preservation shall, subject to this section, be deposited with the National Archives.

(2) Records that are deposited with the National Archives under subsection (1) shall be retained and preserved by the Director in accordance with this section.

(3) Notwithstanding any other enactment, the retention and preservation of the records deposited with the National Archives under subsection (2) shall be subject to the following conditions:

(a) the records shall be sealed and withheld from public inspection and not lent by the Director to any person for a period of 75 years from the date of the dissolution of the relevant body,

(b) following the expiration of the period of 75 years referred to in paragraph (a), the records shall be available for public inspection in accordance with such conditions as may be stipulated by the Director and any regulations as may be made pursuant to the National Archives Act 1986.

(4) Any records of a relevant body, certified by the Director as not warranting preservation under subsection (1) shall be destroyed in such a manner as to ensure that their confidentiality is not affected and that their contents are not ascertainable.

(5) Notwithstanding subsection (4), records shall only be destroyed following the consent of the Minister for Education and Skills.

#### ***Explanatory Note***

*This Head provides that records of the Residential Institutions Redress Board, the Residential Institutions Redress Review Committee and the Commission to Inquire into Child Abuse, other than those records which the Director of the National Archives certifies do not warrant preservation, shall be deposited with the National Archives on the dissolution of the body concerned. It provides that these records will be maintained and preserved by the Director and will be sealed for a period of 75 years from the dissolution of the body concerned. Thereafter the records will be available for public inspection in accordance with such conditions as may be stipulated by the Director and regulations made under the National Archives Act, 1986. Records that are certified by the Director as not warranting preservation will be destroyed in a confidential manner. The consent of the Minister for Education and Skills is required prior to the destruction of records certified as not warranting preservation.*

## **Head 4 Consequential Amendments**

Provide that:

4. (1) The Act of 2000 is amended –

(a) in section 7(6) by deleting “and, in relation to the custody, and the disposal (otherwise than in a matter that would contravene the National Archives Act, 1986), after the dissolution of those bodies, of the documents of the Commission or a Committee and of copies of any documents given in evidence to the Commission or a Committee”.

(b) in section 34 by deleting subsection (4).

(2) Section 28 of the Act of 2002 (amended by section 24 of the Act of 2005), is amended by deleting subsections (7) and (8).

### ***Explanatory Note***

*This Head provides for the removal of the provision in section 7(6) of the Commission to Inquire into Child Abuse Act 2000 which required the Commission to make arrangements for the custody and disposal of its records. It also provides for the repeal of section 34(4) of the CICA Act 2000 which required a head to refuse to grant a request under the Freedom of Information Act for any record of the Confidential Committee which was transferred to a public body on its dissolution.*

*Provision is also made to remove the provisions in the Residential Institutions Redress Act 2002 which required the Redress Board and Review Committee respectively to make determinations regarding the disposal of their records.*

## **Head 5 Restriction of Data Protection Act, 1988**

Provide that:

5. Section 4 of the Data Protection Act 1988 (amended by section 5 of the Data Protection (Amendment) Act, 2003), shall not apply to any personal data provided to a relevant body and included in the records of that body deposited in the National Archives for the period of 75 years from the dissolution of the relevant body during which period the records are sealed in accordance with section 3(3).

### ***Explanatory Note***

*This Head provides for the non-application of the right to personal information under the Data Protection Acts to any personal data included in the records of the relevant bodies which are deposited with the National Archives for the 75 year period during which the records are to be sealed.*

## **Head 6 Restriction of Freedom of Information Act 2014**

Provide that:

6.- The Freedom of Information Act 2014 does not apply to records of a relevant body which are deposited with the National Archives pursuant to *section 3* for the period of 75 years commencing on the dissolution of the relevant body.

### ***Explanatory Note***

*This Head provides for the non-application of the Freedom of Information Act to records of the relevant bodies for so long as the records are not publicly available.*



## **Head 7. Expenses**

Provide that:

7.- The expenses incurred in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

### ***Explanatory Note***

*Head 7 provides that the expenses incurred in the administration of the Act may be paid out of moneys provided by the Oireachtas to such extent may be approved by the Minister for Public Expenditure and Reform.*