

Freedom of Information (Fees) Regulations 2003

Summary

Regulations have been made by the Minister for Finance prescribing fees for the purposes of section 47(6A) of the Freedom of Information Act 1997.

The following fees will 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) received on or after 7 July 2003:

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.
- The following requests/applications are exempt:
 - (a) a request under section 7 for a record or records containing only personal information related to the requester.
 - (b) an application under section 17 (right of amendment of records relating to personal information).
 - (c) 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:
 - (a) an application in relation to a decision concerning records containing only personal information related to the applicant.
 - (b) an application in relation a decision under section 17 (right of amendment of records relating to personal information).
 - (c) an application in relation to a decision under section 18 (right of person to information regarding acts of public bodies affecting the person).
 - (d) 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
 - (a) the person bringing the application is a medical card holder or a dependant of a medical card holder or
 - (b) 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:
 - (a) an application concerning records containing only personal information related to the applicant.
 - (b) an application in relation a decision under section 17 (right of amendment of records relating to personal information)
 - (c) an application in relation to a decision under section 18 (right of person to information regarding acts of pubic bodies affecting the person).
 - (d) 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).
 - (d) 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.

A table summarising these fees is attached. Your attention is also drawn to the attached information note.

Type of Request/Application	<u>Standard Fee*</u>	<u>Reduced Fee *</u> **
<u>Request for a record</u>		
Initial Request	€15	€10
Internal Review	€75	€25
Review by Information Commissioner	€150	€50
<u>Request for a record or containing personal information</u>	No charge	No charge
<u>Application under section 17 for a record containing incorrect, incomplete or misleading personal information</u>	No charge	No charge
<u>Application under section 18 for the reasons for a decision affecting the individual</u>	No charge	No charge

** Fee will not apply where a person appeals a decision to charge a fee or deposit, or a fee or deposit of a particular amount under section 47 of the FOI Act*

*** Reduced fee will apply in respect of third parties who appeal a decision of a public body to release their information on public interest grounds*

Information Note

Freedom of Information (Fees) Regulations 2003

When do the regulations commence?

The regulations are effective as and from 7 July 2003 and apply to FOI requests and review applications received from that date.

What is the position in relation to requests or review applications received before that date?

Requests or review applications received prior to 7 July 2003 are unaffected.

Are the new fees additional to fees for search and retrieval and photocopying of records?

Yes. These fees are prescribed under section 47(6A) of the FOI Act and are additional to fees and deposits that can apply under section 47 in respect of search and retrieval and photocopying of records released to a requester.

What happens if a fee is not paid?

The request is liable to be refused under section 10 of the FOI Act on the grounds that a fee payable under section 47 has not been paid. However before refusing a request on these grounds, public bodies should give the requester the opportunity to proceed with the request. The following paragraph is suggested for inclusion in acknowledgments issued in response to requests for non-personal information that are unaccompanied by the appropriate fee:

A fee of €15 is required before processing of your FOI request can begin. This fee can be paid by cheque, bank draft or order payable to [public body]. A reduced fee of €10 applies if you are covered by a medical card in which case you should supply details of the medical card registration number and issuing health board together with your consent to the verification of these details with the relevant health board.

What happens in the event of a dispute with a requester as to whether or not a request is for personal information?

If the dispute cannot be resolved, the requester should be informed of the decision that a fee is payable and advised of their right to apply for a review of that decision under section 14. **There is no charge for internal review applications in relation to decisions on charging of amounts of fees or deposits.**

The request itself should be refused under section 10 on the grounds that a fee under section 47(6A) has not been paid. If the decision to charge a fee is overturned at internal review or subsequently by the Information Commissioner, the decision to

refuse the request should be deemed to have been unjustified and the request should be reactivated with immediate effect.

How do public bodies establish if a requester is covered by a medical card?

While public bodies are encouraged to inform users of the Act of their entitlements, there is an onus on the requester both to claim medical card coverage when making a request and to provide appropriate evidence in support of such coverage. Evidence could include details of the medical card registration number, issuing health board and the consent of the person making the request to the verification of the details with the health board.

What if there is evidence to suggest that a third party is using a medical card holder to make a request on his or her behalf?

The regulations exclude from the definition of “medical card holder” and “dependant of medical card holder” *a person who is making a request on behalf of some other person who, in the opinion of the head, is seeking to avoid the payment of a standard fee.*

What happens in the event of disputes in relation to a medical card holder?

Where a requester purporting to be covered by a medical card has failed to establish that fact to the satisfaction of the head, h/she should be informed of the decision that the standard fee is payable and advised of their right to apply for a review of that decision under section 14. **There is no charge for internal review applications in relation to decisions on charging of fees or deposits.**

The request itself should be refused under section 10 on the grounds that a fee of a particular amount payable under section 47(6A) has not been paid. If the decision to charge the standard fee is overturned at internal review or subsequently by the Information Commissioner, the request should be reactivated with immediate effect.

What is the position in relation to requests for a mixture of personal and non-personal information?

The exemption for records containing personal information (and for any subsequent review under section 14 or 34) applies to a request for a record or records containing *only* personal information related to the requester. If a requester decides to proceed with a ‘mixed’ request, it is liable for the same fee as applies to requests for non-personal information.

Is there provision for refund of the new fees?

The regulations provide that a fee under section 47(6A) shall be refunded if the requester withdraws a request or an application for review in accordance with the relevant provisions of the Act (sections 7(8), 14(8) or 34(5)).

Fees are not refundable if a decision is varied or annulled at internal or external review stage.

Will guidelines on all charges that apply under the FOI Act be issued?

Yes. A revised copy of the Short Guide to FOI, incorporating changes made by the FOI Amendment Act 2003, will be issued shortly. This includes a chapter on charges. A revised version of CPU Notice 11 (Charges) will also be issued.

Further guidelines will be considered in the light of experience of the operation of these regulations.

FOI Central Policy Unit
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