



Number 2 of 2007

CITIZENS INFORMATION ACT 2007

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ACTS REFERRED TO

Comhairle Act 2000	2000, No. 1
Comptroller and Auditor General (Amendment) Act 1993	1993, No. 8
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Disability Act 2005	2005, No. 14
Petty Sessions (Ireland) Act 1851	14 & 15 Vic., c. 93
Social Welfare Consolidation Act 2005	2005, No. 26



Number 2 of 2007

CITIZENS INFORMATION ACT 2007

AN ACT TO AMEND THE COMHAIRLE ACT 2000 TO CHANGE THE NAME OF COMHAIRLE, SO THAT IT SHALL BE KNOWN, IN THE ENGLISH LANGUAGE, AS THE CITIZENS INFORMATION BOARD OR, IN THE IRISH LANGUAGE, AS AN BORD UM FHAISNÉIS DO SHAORÁNAIGH, TO AMEND AND EXTEND ITS FUNCTIONS AND, IN PARTICULAR, TO CONFER A FUNCTION ON IT TO PROVIDE, OR ARRANGE FOR THE PROVISION OF, A PERSONAL ADVOCACY SERVICE TO CERTAIN PERSONS WITH DISABILITIES, TO MAKE CERTAIN CHANGES TO ITS MEMBERSHIP AND TO PROVIDE FOR RELATED MATTERS.

[21st February, 2007]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act “Principal Act” means Comhairle Act 2000.

Definition.

2.—Section 2(1) of the Principal Act is amended—

Amendment of section 2(1) of Principal Act.

(a) by the substitution of the following definition for the definition of “Board”:

“ ‘Board’ has the meaning assigned to it by section 6, as amended by *section 3* of the *Citizens Information Act 2007*;”

(b) by the substitution of the following definition for the definition of “voluntary body”:

“ ‘voluntary body’ means—

(a) a body corporate, or

(b) an unincorporated body of persons,

other than a statutory body, and includes a body commonly known as a Citizen Information Service or a Citizen Information Centre;”

and

(c) by the insertion of the following definitions:

“ ‘deciding officer’ has the meaning it has in section 2(1) of the Social Welfare Consolidation Act 2005;

‘the Director’ has the meaning assigned to it by section 7A;

‘disability’, in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment;

‘Personal Advocacy Service’ has the meaning assigned to it by section 7A;

‘personal advocates’ has the meaning assigned to it by section 7A;

‘qualifying person’ has the meaning assigned to it by section 7A;

‘social service’ means any service provided by a statutory body or voluntary body that is available or accessible to the public generally or a section of the public pursuant to statute or otherwise and includes, but is not limited to, a service in relation to any of the following, namely, health, social welfare, education, family support, housing, taxation, citizenship, consumer matters, employment and training, equality, asylum and immigration;”.

Change of name of Board.

3.—(1) The name of Comhairle is hereby changed and, following the passing of this Act, it shall be known, in the English language, as the Citizens Information Board or, in the Irish language, as An Bord um Fhaisnéis do Shaoránaigh.

(2) References in the Principal Act to the Board shall, following the passing of this Act, be construed as references to the body established by section 6 of that Act whose name is changed by *subsection (1)*.

Amendment of section 7 of Principal Act.

4.—Section 7 of the Principal Act is amended—

(a) in subsection (1), by the substitution of the following paragraphs for paragraphs (b) and (c):

“(b) to support the provision of or, where the Board considers it appropriate, to provide directly, advocacy services to individuals, in particular those with a disability, that would assist them in identifying and understanding their needs and options and in securing their entitlements to social services,

(bb) to provide, or to arrange for the provision of, a Personal Advocacy Service to qualifying persons and, in so doing, the Board shall take account of the following:

(i) the financial resources of the Board; and

(ii) whether qualifying persons can obtain advocacy services otherwise than under this Act,

(c) to support, promote and develop—

(i) greater accessibility, co-ordination and public awareness of social services, and

(ii) the provision and dissemination of integrated information in relation to such services by statutory bodies and voluntary bodies.”;

and

(b) by the insertion of the following subsections after subsection (1):

“(1A) The Board shall, subject to the approval of the Minister, determine the terms on which and the conditions subject to which it may—

(a) support the provision of information, advice or advocacy services under subsection (1), and

(b) provide financial or other resources to a voluntary body under subsection (1)(e) or to a body specified by the Minister under subsection (1)(h),

and different terms and conditions may apply under paragraphs (a) and (b) and in relation to different types of bodies.

(1B) The Board shall, in determining the terms and conditions under subsection (1A), have regard to the objective of it promoting the provision of an integrated, reliable and comprehensive information service of the highest quality.

(1C) The Board may, for the purpose of providing the support referred to in paragraph (a) of subsection (1A) or the financial or other resources referred to in paragraph (b) of that subsection, request the body or person concerned to furnish it with information in such form and at such times as it may require.

(1D) The Board may refuse to provide the support referred to in paragraph (a) of subsection (1A), or the financial or other resources referred to in paragraph (b) of that subsection, if the body or person concerned does not comply with the terms and conditions determined under that subsection or if it fails or refuses to furnish the Board with any information requested of the body or person concerned under subsection (1C).

(1E) The Board, in performing the functions conferred on it by or under this section, shall have regard to the need for it to co-operate with statutory bodies and voluntary bodies.”.

Personal advocates. 5.—The Principal Act is amended by the insertion of the following sections after section 7:

“Personal
Advocacy
Service.

7A.—(1) The Chief Executive may designate such and so many members of the staff of the Board as he or she considers appropriate to be personal advocates to qualifying persons (hereinafter referred to as ‘personal advocates’) and a person so designated shall hold office as a personal advocate for such period as the Chief Executive may determine.

(2) A personal advocate shall have such qualifications, expertise and experience relevant to personal advocacy as the Board considers appropriate.

(3) A person is a qualifying person for the purposes of this Act if—

(a) he or she is not less than 18 years of age and, in the opinion of the Director—

(i) is, by reason of a disability, unable to obtain or has difficulty in obtaining a particular social service or services without the assistance or support of a personal advocate, and

(ii) there are reasonable grounds for believing that there is, in relation to the person, a risk of harm to his or her health, welfare or safety if he or she is not provided with the social service or services that he or she is seeking to obtain,

or

(b) he or she is under 18 years of age and—

(i) his or her sole parent or guardian is a qualifying person, or

(ii) he or she has a disability or, in relation to whom, in the opinion of the Director, there are reasonable grounds for believing that he or she has a disability, and in either case the circumstances are such that it would be unreasonable to expect a parent or guardian of the person to act on his or her behalf in obtaining a particular social service or services without the assistance or support of a personal advocate,

and, in the opinion of the Director, there are reasonable grounds for believing that there is, in relation to the person, a risk of harm to his or her

health, welfare or safety if he or she is not provided with the social service or services that he or she is seeking to obtain.

(4) A person shall not cease to be a qualifying person for the purposes of this Act by reason only of the fact that he or she is in receipt of a social service or services.

(5) The Board shall have regard to the following to determine the order of priority to be accorded to different qualifying persons in the assignment of personal advocates to such persons:

- (a) the needs of qualifying persons to have personal advocates assigned to them;
- (b) the degrees of risk of harm to the health, welfare or safety of qualifying persons if they are not provided with the social service or services that they are seeking to obtain;
- (c) the benefits likely to accrue to qualifying persons if personal advocates are assigned to them;
- (d) the availability to qualifying persons of advocacy services otherwise than under this Act; and
- (e) such other matters as the Board considers appropriate or as may be prescribed by regulations made by the Minister, which he or she is hereby authorised to make for that purpose.

(6) The service provided to qualifying persons under this section and sections 7B to 7F shall be known, and is in this Act referred to, as the 'Personal Advocacy Service'.

(7) The Board may, with the approval of the Minister and the consent of the Minister for Finance, appoint a person who shall be known as the Director of the Personal Advocacy Service, and is referred to in this Act as 'the Director', to perform the functions conferred on the Director by this Act.

(8) Subsections (2) and (4) of section 14 shall apply to the Director in the same manner as they apply to other members of the staff of the Board.

(9) The Director shall manage and control the Personal Advocacy Service and shall be responsible to the Chief Executive for such management and control.

(10) (a) The Director shall, if the Director or a member of the staff of the Board who is authorised to perform the functions

of the Director under section 7B is informed by a person (in this subsection referred to as a 'specified person') that he or she is of opinion in relation to another person that the second-mentioned person is a qualifying person, provide information to the person in relation to the Personal Advocacy Service and, in particular, the requirements of section 7B in respect of an application for the assignment of a personal advocate to a person.

- (b) In this subsection 'specified person', in relation to another person, means a member of that person's family, a carer of that person or any other person, including a member of an organisation or group, who is actively involved in promoting the health, welfare or well-being of that person.

(11) The functions of the Director under subsection (10) and section 7B may be performed by such members of the staff of the Board as the Director may authorise in that behalf.

(12) Regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(13) Every regulation under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Application
for assignment
of personal
advocate.

7B.—(1) A person who is of opinion that he or she is a qualifying person (in this section referred to as an 'applicant') may apply in writing, or in such other form as may be specified by the Minister, to the Director for the assignment of a personal advocate to him or her and he or she shall specify in the application the social service or services that he or she is seeking to obtain.

(2) An application under subsection (1) may be made by any person on behalf of an applicant.

(3) The Director shall determine whether or not an applicant is a qualifying person and, if he or she is satisfied that the applicant is such a person, he or she shall assign a personal advocate to the applicant in accordance with this Act.

(4) A decision to grant or to refuse to grant an application under subsection (1) shall be made and

the applicant concerned and, if appropriate, the person who made the application on his or her behalf shall be notified of it by the Director in writing, or such other form as may be specified by the Minister, as soon as practicable after the receipt by the Director of the application.

(5) If the grant of an application under subsection (1) is refused, the notification under subsection (4) shall specify the reasons for the refusal and state that the applicant concerned may appeal against the decision of the Director under section 7C.

(6) If the grant of an application under subsection (1) is refused, the Director may, at any time, reverse the decision where it appears to him or her that the decision was erroneous in the light of new evidence or of new facts which have been brought to his or her notice since the decision was made or by reason of some mistake having been made in relation to the law or the facts, or where it appears to him or her that there has been any relevant change of circumstances of the applicant concerned since the decision was made, and the provisions of section 7C shall apply to the revised decision in the same manner as they apply to the original decision relating to the application.

(7) Subsection (6) shall not apply to a decision relating to an application which is on appeal or reference under section 7C unless the revised decision would be in favour of the applicant concerned.

(8) A document purporting to be a certificate of a decision made under this section by the Director or, as the case may be, a person authorised under section 7A(11) to perform the functions of the Director under this section and to be signed by the Director or that person, as the case may be, shall be *prima facie* evidence of the making of the decision and of the terms of that decision, without proof of the signature of the Director or that person, as may be appropriate, or of his or her official capacity.

Appeals.

7C.—(1) Chapters 2 (other than sections 309, 312, 315, 316(3) and 321) and 4 of Part 10 of the Social Welfare Consolidation Act 2005 shall apply to an appeal against a decision of the Director under section 7B in the same manner as they apply to appeals against a decision of a deciding officer under Chapter 1 of that Part, subject to the following and any other necessary modifications:

- (a) in section 304, the insertion of ‘and section 7C (inserted by *section 5* of the *Citizens Information Act 2007*) of the *Comhairle Act 2000*’ after ‘for the purposes of this Act’;

(b) in section 307, the substitution of references to the Director for references to a deciding officer;

(c) in section 311—

(i) the substitution of the following subsection for subsection (1):

‘(1) Where any person is dissatisfied with the decision given by the Director, the question shall, on notice of appeal being given, by or on behalf of that person, to the Chief Appeals Officer within the prescribed time, be referred to an appeals officer.’,

and

(ii) in subsection (3)—

(I) the deletion of ‘or section 312’,

(II) the substitution of a reference to the Director for the reference to the deciding officer, and

(III) the deletion of ‘, or the determination of the employee of the Executive, as the case may require.’;

(d) the substitution of the following section for section 319:

‘Effect of revised decision by appeals officer. 319.—A revised decision given by an appeals officer shall take effect from the date considered appropriate by the appeals officer having regard to the circumstances of the case.’;

(e) the substitution of the following section for section 320:

‘Decision of appeals officer to be final and conclusive. 320.—The decision of an appeals officer on any question arising under section 7C (inserted by section 5 of the *Citizens Information Act 2007*) of the Comhairle Act 2000 shall, subject to sections 317, 318 and 327, be final and conclusive.’;

(f) in section 328, the deletion of ‘a deciding officer or’;

- (g) the substitution of the following section for section 329:

‘Revision to include revision consisting of reversal. 329.—A reference in this Part to a revised decision given by an appeals officer includes a reference to a revised decision which reverses the original decision.’;

and

- (h) the substitution of the following section for section 330:

‘Regulations. 330.—The Minister may make regulations specifying the procedures to be followed by an appeals officer when deciding questions under section 311, including that section as applied by subsection (1) of section 7C (inserted by *section 5* of the *Citizens Information Act 2007*) of the *Comhairle Act 2000*.’.

(2) References in the provisions of Part 10 of the *Social Welfare Consolidation Act 2005* applied by subsection (1) to that Part shall be construed as including references to that Part as so applied.

Functions of personal advocate.

7D.—(1) A personal advocate assigned to a qualifying person under this Act shall—

- (a) if appropriate, make or assist in making an application for an assessment under Part 2 of the *Disability Act 2005* in respect of the person and assist, support and represent the person in accordance with the said Part 2 in relation to the application, assessment and service statement (if any) prepared in respect of the person,
- (b) assist, support and represent the person—
- (i) to apply for and obtain a social service or services specified in the application under section 7B(1) concerned or, if appropriate, in a service statement prepared in respect of the person, and
- (ii) if the personal advocate considers it appropriate to do so, to pursue any right of review, reference or appeal to a body other than a court if the application for such service or services is refused,

and

(c) for the purpose of assisting the person to promote the best interests of his or her health, welfare and well-being, provide support or training or both to—

(i) the person, or

(ii) a member of the person's family, a carer of the person or any other person, including a member of an organisation or group, who is actively involved in promoting the health, welfare or well-being of the person,

or both for so long as the personal advocate is performing functions under paragraph (a) or (b) in respect of the person.

(2) A personal advocate assigned to a qualifying person under this Act may, for the purpose of performing his or her functions, at any reasonable time enter any place where day care, residential care or training is provided for the person and make such inquiries in such place in relation to the person as he or she considers appropriate.

(3) Subject to the Data Protection Acts 1988 and 2003, a personal advocate assigned to a qualifying person under this Act may, for the purpose of performing his or her functions, do all or any of the following:

(a) obtain from a statutory body or voluntary body any information relating to the person that the personal advocate considers necessary;

(b) attend and represent the person at any meeting, consultation or discussion at which the interests of the person are being considered and which the person would have attended if he or she were not a qualifying person; and

(c) identify any person referred to in subsection (1)(c)(ii) who may assist the qualifying person.

(4) A statutory body or voluntary body that provides social services shall co-operate with a personal advocate in the performance of his or her functions.

(5) A person who by act or omission obstructs or hinders a personal advocate in the performance of his or her functions shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €2,000 or imprisonment for a term not exceeding 3 months or both.

(6) Proceedings for an offence under this section may be brought and prosecuted by the Minister.

(7) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this section may be instituted within 12 months from the date of the offence.

(8) In this section ‘application’, ‘assessment’ and ‘service statement’ have the meanings assigned to them respectively by Part 2 of the Disability Act 2005.

Liability for offences by bodies corporate.

7E.—(1) Where an offence under section 7D(5) is committed by a body corporate and is proved to have been committed with the consent, connivance or approval of, or to have been attributable to any wilful neglect on the part of, any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Arrangement to provide services of personal advocates.

7F.—The Board, with the approval of the Minister and subject to such terms and conditions as are considered appropriate, may arrange for the functions of personal advocates under section 7D to be performed by persons other than members of the staff of the Board and sections 7A to 7E shall, with any necessary modifications, apply to such persons.”.

6.—Section 9 of the Principal Act is amended—

Amendment of section 9 of Principal Act.

- (a) in subsection (1), by the substitution of “15 members” for “20 members”,
- (b) in subsection (3), by the substitution of “5 years” for “3 years”,
- (c) in subsection (4), by the substitution of the following paragraph for paragraph (b):
 - “(b) 3 members who represent persons with a disability, and”,
- (d) in subsection (12), by the substitution of “6 members” for “8 members” in both places where it occurs, and
- (e) by the deletion of subsection (13).

Amendment of
section 11 of
Principal Act.

7.—Section 11 of the Principal Act is amended by the substitution of the following subsection for subsection (3):

“(3) The quorum for a meeting of the Board shall be 8 or such lesser number (being not less than 5) as the Board may from time to time determine.”.

Amendment of
section 23 of
Principal Act.

8.—Section 23 of the Principal Act is amended by the substitution of the following subsection for subsection (1):

“(1) The Chief Executive shall, whenever required to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, give evidence to that Committee on—

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General which the Board or the Chief Executive is required by this Act to prepare,
- (b) the economy and efficiency of the Board in the use of its resources,
- (c) the systems, procedures and practices employed by the Board for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting the Board referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993 or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in paragraph (a), (b) or (c)) that is laid before Dáil Éireann.”.

Directions to
Board.

9.—The Principal Act is amended by the insertion of the following section after section 24:

“Directions to Board. 24A.—The Minister may give to the Board such general policy directions (including directions to undertake campaigns to disseminate information relating to a particular social service or services) with regard to the performance of its functions as he or she considers appropriate, and the Board shall comply with any such directions.”.

Short title,
collective citation
and
commencement.

10.—(1) This Act may be cited as the Citizens Information Act 2007.

(2) The Principal Act and this Act may be cited together as the Citizens Information Acts 2000 and 2007.

(3) This Act (other than *section 3*) shall come into operation on such day or days as the Minister for Social and Family Affairs may

appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.