



Number 12 of 2018

National Archives (Amendment) Act 2018



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NATIONAL ARCHIVES (AMENDMENT) ACT 2018

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[No. 12.]

National Archives (Amendment) Act 2018

[2018.]

ACT REFERRED TO

National Archives Act 1986 (No. 11)



Number 12 of 2018

NATIONAL ARCHIVES (AMENDMENT) ACT 2018

An Act to extend provision in relation to Departmental records liable to be transferred to the National Archives and for that purpose to amend the National Archives Act 1986; and to provide for related matters. [14th July, 2018]

Be it enacted by the Oireachtas as follows:

Definitions

1. In this Act—

“Minister” means the Minister for Culture, Heritage and the Gaeltacht;

“Principal Act” means the National Archives Act 1986.

Amendment of section 1 of Principal Act

2. Section 1 of the Principal Act is amended by the insertion of the following definitions:

“ ‘Minister’ means the Minister for Culture, Heritage and the Gaeltacht;

‘relevant records’ has the meaning assigned to it by section 2A (inserted by section 3 of the *National Archives (Amendment) Act 2018*).”.

Relevant records

3. The Principal Act is amended by the insertion of the following section after section 2:

“**2A.** (1) Subject to subsection (2), for the purposes of this Act, relevant records are Departmental records which are—

(a) more than 30 years old, or

(b) less than 30 years old but more than 20 years old and in relation to which an order has been made under section 8(1A) (inserted by section 4(b) of the *National Archives (Amendment) Act 2018*).

(2) Where the Minister makes an order under section 8(1B) (inserted by section 4(c) of the *National Archives (Amendment) Act 2018*), relevant records are all Departmental records which are more than 20 years old.”.

Amendment of section 8 of Principal Act**4.** Section 8 of the Principal Act is amended—

(a) in subsection (1), by the substitution of “Relevant records” for “Departmental records which are more than 30 years old and”,

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

“(1A) (a) The Minister, on being satisfied as to the matters referred to in paragraph (b), may—

(i) following consultation by him or her with the Director, and

(ii) with the consent of—

(I) the Taoiseach,

(II) the Minister for Public Expenditure and Reform, and

(III) other than where the records concerned are those of the Department of Culture, Heritage and the Gaeltacht, the relevant member of the Government,

make an order requiring the transfer, in accordance with this Act, to the National Archives of a class or classes of Departmental records which are less than 30 years old but more than 20 years old.

(b) The Minister may make an order under this subsection where he or she is satisfied that—

(i) (I) the records concerned are of significant historical or public interest such as to warrant their transfer to the National Archives, or

(II) the transfer of the records concerned to the National Archives will facilitate the balanced and fair reporting of matters of common interest to the State and other jurisdictions,

and

(ii) the arrangements for such transfer are adequate.

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

(d) In paragraph (a), “relevant member of the Government” means, in relation to a class or classes of Departmental records specified in an order to be made under that paragraph—

- (i) the member of the Government who has responsibility for the Department of State where the class or classes of Departmental records concerned were made, or
 - (ii) where the Departmental records of the class or classes specified in the order to be made are held in another such Department, the member of the Government who has responsibility for that other Department.”,
- (c) by the insertion of the following subsection after subsection (1A) (inserted by *section 4(b)* of the *National Archives (Amendment) Act 2018*):
 - “(1B) (a) The Minister may—
 - (i) following consultation by him or her with the Director, and
 - (ii) with the consent of the Taoiseach and the Minister for Public Expenditure and Reform,

by order appoint a day as the day with effect from which all Departmental records which are more than 20 years old are to be transferred to the National Archives in accordance with this Act.
 - (b) The Minister may make an order under this subsection where he or she is satisfied that the arrangements for the transfer of all Departmental records which are more than 20 years old to the National Archives are adequate.
 - (c) An order under this subsection shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order has been laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”,
- (d) by the insertion of the following subsection after subsection (1B) (inserted by *section 4(c)* of the *National Archives (Amendment) Act 2018*):
 - “(1C) Nothing in subsection (1) shall require a Department of State to transfer relevant records to the National Archives where those records have previously been transferred to the National Archives in accordance with this Act.”,
- (e) in subsection (2), by the substitution of “particular relevant records, or a particular class or classes of relevant records, being records prescribed in accordance with subsection (11), which are specified” for “a particular Departmental record, or a particular class or classes of Departmental records prescribed in accordance with subsection (11), which are more than 30 years old and are specified”,
- (f) in subsection (3), by the substitution of “particular relevant records, or a particular class or classes of relevant records, which are specified” for “particular

Departmental records (or a class or classes of such records) which are more than 30 years old and are specified”,

- (g) in subsection (4), by the substitution of “in relation to particular relevant records, or a particular class or classes of relevant records, being records prescribed in accordance with subsection (11), which are specified” for “in relation to particular Departmental records, or a particular class or classes of Departmental records prescribed in accordance with subsection (11), which are more than 30 years old and are specified”,
- (h) in subsection (5), by the substitution of “Relevant records” for “Departmental records”,
- (i) in subsection (6), by the substitution of “Relevant records” for “Departmental records”,
- (j) in subsection (7), by the insertion of “Departmental records which are not relevant records” for “Departmental records which are less than 30 years old”, and
- (k) in subsection (8), by the substitution of “any class of Departmental records, other than a class of Departmental records referred to in section 2A(1)(b) or 2A(2) (each inserted by *section 3* of the *National Archives (Amendment) Act 2018*),” for “any class or group of Departmental records”.

Amendment of section 10 of Principal Act

5. Section 10 of the Principal Act is amended—

- (a) in subsection (1)(a), by the substitution of “Departmental records (other than court or testamentary documents) which are not relevant records” for “Departmental records (other than court or testamentary documents) and are less than 30 years old”,
- (b) in subsection (5), by the substitution of the following for “Archives which were formerly Departmental records and which have not been available for inspection for more than 30 years shall be reviewed”:

“Archives which were formerly Departmental records and which have not been available for public inspection—

(a) in the case of Departmental records—

- (i) referred to in section 2A(1)(a) (inserted by *section 3* of the *National Archives (Amendment) Act 2018*), for more than 30 years, or
- (ii) referred to in section 2A(1)(b) (inserted by *section 3* of the *National Archives (Amendment) Act 2018*), for more than 20 years,

or

- (b) in the case of Departmental records referred to in section 2A(2) (inserted by *section 3* of the *National Archives (Amendment) Act 2018*), for more than 20 years, shall be reviewed”,

and

- (c) by the deletion of subsection (6).

Amendment of section 11 of Principal Act

- 6. Section 11 of the Principal Act is amended by the substitution of “relevant records which continue” for “Departmental records, which are more than 30 years old and continue”.

Short title and commencement

- 7. (1) This Act may be cited as the National Archives (Amendment) Act 2018.
- (2) This Act shall come into operation on such day or days as the Minister 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 provisions.