

**TRIBUNALS OF INQUIRY (EVIDENCE) ACT 1921**  
(as amended)

An Act to make provision with respect to the taking of evidence before and the procedure and powers of certain Tribunals of Inquiry. [24th March 1921.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Where it has been resolved (whether before or after the commencement of this Act) by both Houses of Parliament that it is expedient that a tribunal be established for inquiring into a definite matter described in the Resolution as of urgent public importance, and in pursuance of the Resolution a tribunal is appointed for the purpose either by His Majesty or Secretary of State, the instrument by which the tribunal is appointed or any instrument supplemental thereto may provide that this Act shall apply, and in such case the tribunal shall have all such powers, rights, and privileges as are vested in the High Court, or in Scotland the Court of Session, or a judge of either such court, on the occasion of an action in respect of the following matters:—

- (a) The enforcing the attendance of witnesses and examining them on oath, affirmation, or otherwise;
- (b) The compelling the production of documents;
- (c) Subject to rules of court, the issuing of a commission or request to examine witnesses abroad; and a summons signed by one or more of the members of the tribunal may be substituted for and shall be equivalent to any formal process capable of being issued in any action for enforcing the attendance of witnesses and compelling the production of documents.

(2) If a person—

- (a) on being duly summoned as a witness before a tribunal, without just cause or excuse disobeys the summons, or
- (b) being in attendance as a witness refuses to take an oath or to make an affirmation when legally required by the tribunal to do so, or to produce any documents (which word shall be construed in this subsection and in subsection (1) of this section as including things) in his power or control legally required by the tribunal to be produced by him, or to answer any question to which the tribunal may legally require an answer, or
- (c) wilfully gives evidence to a tribunal which is material to the inquiry to which the tribunal relates and which he knows to be false or does not believe to be true, or
- (d) by act or omission, obstructs or hinders the tribunal in the performance of its functions, or

(*e*) fails, neglects or refuses to comply with the provisions of an order made by the tribunal, or

(*f*) does or omits to do any other thing and if such doing or omission would, if the tribunal had been the High Court, have been contempt of that Court,

the person shall be guilty of an offence.

**(2A)**

(*a*) A person guilty of an offence under this section shall be liable on conviction on indictment to a fine not exceeding €300,000 or, at the discretion of the court, to imprisonment for a term not exceeding 2 years or to both such fine and such imprisonment.

(*b*) A justice of the District Court shall have jurisdiction to try summarily an offence under this section if—

- (i) the justice is of opinion that the facts proved or alleged against a defendant charged with such an offence constitute a minor offence fit to be tried summarily,
  - (ii) the Director of Public Prosecutions consents, and
  - (iii) the defendant (on being informed by the justice of his right to be tried by a jury) does not object to being tried summarily,
- and, upon conviction under this paragraph, the said defendant shall be liable to a fine not exceeding €3,000 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both such fine and such imprisonment.

(*c*) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence under this section as if, in lieu of the penalties specified in subsection (3) of that section there were specified therein the penalties provided for by paragraph (*b*) of this subsection, and the reference in subsection (2) (*a*) of that section to the penalties provided for in subsection (3) of that section shall be construed accordingly.

(Amended by s.3 of the 1979 Act and s.9 of the 2002 Act)

(3) A witness before any such tribunal shall be entitled to the same immunities and privileges as if he were a witness before the High Court or the Court of Session.

(4) A person who produces or sends a document to any such tribunal pursuant to an order of that tribunal shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.

(Inserted by s.2 of the 1997 Act)

**1(A).**- (1) An instrument to which this section applies (whether made before or after the passing of the *Tribunals of Inquiry (Evidence) (Amendment)(No. 2) Act 1998*) shall be amended, pursuant to a Resolution of both Houses of the Oireachtas, by a Minister of the Government, where the tribunal-

(a) has requested the amendment, and

(b) is satisfied that such amendment would not prejudice the legal rights of any person who has co-operated with or provided information to the tribunal under its terms of reference.

(2) Without prejudice to the generality of subsection (1), the tribunal shall not consent to or request an amendment to an instrument to which this section applies where it is satisfied that such amendment would prejudice the legal rights of any person who has co-operated with or provided information to the tribunal under its terms of reference.

(3) Where an instrument to which this section applies is so amended this Act shall apply.

(4) This section applies, in the case of a tribunal to which this Act is applied under section 1 of this Act, to the instrument by which the tribunal is appointed.

(Inserted by s.1 of the 1998 (No 2) Act)

**2.** A tribunal to which this Act is so applied as aforesaid—

(a) shall not refuse to allow the public or any portion of the public to be present at any of the proceedings of the tribunal unless in the opinion of the tribunal it is in the public interest expedient so to do for reasons connected with the subject matter of the inquiry or the nature of the evidence to be given and, in particular, where there is a risk of prejudice to criminal proceedings; and

(b) shall have power to authorise the representation before them of any person appearing to them to be interested to be by counsel or solicitor or otherwise, or to refuse to allow such representation.

(Amended by s.2 of the 2002 Act)

**3.** This Act may be cited as the *Tribunals of Inquiry (Evidence) Act, 1921*.

**TRIBUNALS OF INQUIRY (EVIDENCE) (AMENDMENT) ACT, 1979**  
(as amended)

AN ACT TO AMEND THE *TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921*.  
[27th February, 1979]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

“the Principal Act” means the Tribunals of Inquiry (Evidence) Act, 1921;  
 “a tribunal” means a tribunal to which the Principal Act is applied under section 1 of that Act.

2.—(1) A tribunal may consist of one or more than one person sitting with or without an assessor or assessors appointed by the instrument appointing the tribunal or any instrument supplemental thereto.

(2) An assessor appointed under this section shall not be a member of the tribunal in relation to which he is so appointed.

(3) One or more persons may be appointed to be a member or members of a tribunal at any time after the tribunal is appointed.

(4) Subject to section 6 (as amended by section 3 of the Tribunals of Inquiry (Evidence) (Amendment) Act, 1997 ) of this Act, a decision or determination of a tribunal consisting of more than one member may be that of a majority of its members and, in the case of an equal division among its members as to the decision or determination to be made, the decision or determination shall be that of the chairperson of the tribunal.

(5) If the chairperson of a tribunal is for any reason unable to continue to act as such chairperson, another member of the tribunal may be designated as its chairperson, and the former chairperson may continue to be a member of the tribunal.

(6) An appointment under subsection (3), or a designation under subsection (5), of this section shall be made by an amendment under section 1A (inserted by section 1 of the Tribunals of Inquiry (Evidence) (Amendment) (No. 2) Act, 1998 ) of the Principal Act of the instrument by which the tribunal concerned was appointed, and may be so made notwithstanding the fact that the tribunal concerned, while consenting to or requesting the making of the appointment or designation, does not consent to the appointment or designation of the particular person.

(7) An appointment under subsection (3), or a designation under subsection (5), of this section shall not affect decisions, determinations or inquiries made or other actions taken by the tribunal concerned before such appointment or designation.

(8) A member of a tribunal who is unable to act as such member, whether temporarily or for the remainder of the tribunal's inquiry, shall be deemed for the duration of such inability not to be a member of the tribunal.

(9) A tribunal may act or continue to act notwithstanding one or more vacancies among its members if it is satisfied that the legal rights of any person affected by the proceedings of the tribunal would not be thereby unduly prejudiced.

(Amended by s.4 of the 2002 Act)

3.— [See s.1 of the Principal Act above]

4.—A tribunal may make such orders as it considers necessary for the purposes of its functions, and it shall have, in relation to their making, all such powers, rights and privileges as are vested in the High Court or a judge of that Court in respect of the making of orders.

5.—A statement or admission made by a person before a tribunal or when being examined in pursuance of a commission or request issued under subsection (1) of section 1 of the Principal Act shall not be admissible as evidence against that person in any criminal proceedings (other than proceedings in relation to an offence under subsection (2) (c) (inserted by this Act) of that section) and subsection (3) of that section shall be construed and have effect accordingly.

6.— (1) Where a tribunal or, if the tribunal consists of more than one member, the chairperson of the tribunal, is of opinion that, having regard to the findings of the tribunal and all other relevant matters (including the terms of the resolution passed by each House of the Oireachtas relating to the establishment of the tribunal or failing to co-operate with or provide assistance to, or knowingly giving false or misleading information to, the tribunal), there are sufficient reasons rendering it equitable to do so, the tribunal, or the chairperson, as the case may be, may, either of the tribunal's or the chairperson's own motion, as the case may be, or on application by any person appearing before the tribunal, order that the whole or part of the costs—

(a) of any person appearing before the tribunal by counsel or solicitor, as taxed by a Taxing Master of the High Court, shall be paid to the person by any other person named in the order;

(b) incurred by the tribunal, as taxed as aforesaid, shall be paid to the Minister for Finance by any other person named in the order.

(1A) The person who for the time being is the sole member of a tribunal or is the chairperson of a tribunal consisting of more than one member-

(a) may make an order under subsection (1) in relation to any costs referred to in that subsection that were incurred before his or her appointment as sole member or chairperson and that have not already been determined in accordance with that subsection, and

(b) shall for that purpose, have regard to any report of the tribunal relating to its proceedings in the period before his or her appointment.

(1B) Paragraph (b) of subsection (1A) shall not be taken to limit the matters to which regard is to be had under subsection (1).

(2) Any sum payable pursuant to an order under this section shall be recoverable as a simple contract debt in any court of competent jurisdiction.

(3) Any sum payable by the Minister for Finance pursuant to an order under this section shall be paid out of moneys provided by the Oireachtas.

(Amended by s.3 of the 1997 Act and s.2 of the 2004 Act)

7.—(1) This Act may be cited as the Tribunals of Inquiry (Evidence) (Amendment) Act, 1979.

(2) The Tribunals of Inquiry (Evidence) Act, 1921, and this Act may be cited together as the Tribunals of Inquiry (Evidence) Acts, 1921 and 1979.

**TRIBUNALS OF INQUIRY (EVIDENCE) (AMENDMENT) ACT, 1997**  
(as amended)

AN ACT TO AMEND THE TRIBUNALS OF INQUIRY (EVIDENCE) ACTS, 1921  
AND 1979. [18th December, 1997]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

“the Principal Act” means the Tribunals of Inquiry (Evidence) Act, 1921;  
“a tribunal” means a tribunal to which the Principal Act is applied under section 1 of that Act.

2.— [See s.1 of the Principal Act above]

3.—(1) [See s.6 of the 1979 Act above]

(2) The amendment effected by subsection (1) of this section does not apply to costs incurred before the passing of this Act.

4.—Where a person fails or refuses to comply with or disobeys an order of a tribunal, the High Court may, on application to it in a summary manner in that behalf by the tribunal, order the person to comply with the order and make such other order as it considers necessary and just to enable the order to have full effect.

4A.—(1) A tribunal or, where the tribunal consists of more than one member, the chairperson may, whenever the tribunal or chairperson considers it appropriate to do so, apply to the High Court for directions relating to the performance of the functions of the tribunal or the chairperson under the Tribunals of Inquiry (Evidence) Acts 1921 to 2004, including their functions under section 6 of the Tribunals of Inquiry (Evidence) (Amendment) Act 1979 relating to costs.

(2) On an application under subsection (1), the High Court may give such directions and make such orders as it considers appropriate.

(3) The High Court may, on application, hear an application under subsection (1) otherwise than in public if satisfied that it is appropriate to do so because of—

- (a) the subject matter in relation to which directions are sought,
- (b) a risk of prejudice to criminal proceedings, or
- (c) any other matter relating to the nature of the evidence to be given at the hearing of the application.

(4) The High Court shall give such priority as it reasonably can, having regard to all the circumstances, to the disposal of proceedings in the Court under this Act.

(5) The Superior Court Rules Committee may, with the concurrence of the Minister for Justice, Equality and Law Reform, make rules to facilitate giving effect to subsection (4).

**4B.**—(1) A tribunal consisting of more than one member may, whenever the chairperson so determines, act in divisions each of which consists of such members of the tribunal as the chairperson may determine.

(2) The chairperson of a tribunal may, in relation to each division—

- (a) designate one member of the division as its chairperson,
- (b) determine those functions of the tribunal that are to be performed by the division,
- (c) determine the matters in relation to which the division is to perform those functions, and
- (d) require the division to prepare a report of its findings.

(3) A division of a tribunal shall provide any report prepared as required by subsection (2) to the chairperson of the tribunal, and the report is considered for all purposes to have been made by the tribunal.

(4) A division of a tribunal and the chairperson of a division have, for the purposes of performing the functions of the division, all the powers and duties of the tribunal and chairperson of the tribunal respectively, including their powers and duties under section 6 of the Tribunals of Inquiry (Evidence) (Amendment) Act 1979 relating to costs.

(5) If the chairperson of a division of a tribunal is for any reason unable to continue to act as such, another member of the division may be designated under subsection (2)(a) as its chairperson, and the designation does not affect decisions, determinations or inquiries made or other actions taken before the designation.

(Inserted by s.3 of the 2004 Act)

5.—(1) This Act may be cited as the Tribunals of Inquiry (Evidence) (Amendment) Act, 1997.

(2) The Tribunals of Inquiry (Evidence) Acts, 1921 and 1979, and this Act may be cited together as the Tribunals of Inquiry (Evidence) Acts, 1921 to 1997.

### **TRIBUNALS OF INQUIRY (EVIDENCE) (AMENDMENT) (NO. 2) ACT, 1998**

AN ACT TO AMEND THE TRIBUNALS OF INQUIRY (EVIDENCE) ACTS, 1921 TO 1998. [12th June, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—[See s.1A of the Principal Act above]

2.—(1) This Act may be cited as the Tribunals of Inquiry (Evidence) (Amendment) (No. 2) Act, 1998.

(2) The Tribunals of Inquiry (Evidence) Acts, 1921 to 1998, and this Act may be cited together as the Tribunals of Inquiry (Evidence) Acts, 1921 to 1998.

### **TRIBUNALS OF INQUIRY (EVIDENCE) (AMENDMENT) ACT, 2002**

AN ACT TO AMEND THE TRIBUNALS OF INQUIRY (EVIDENCE) ACTS, 1921 TO 1998. [27th March, 2002]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act—

“Act of 1979” means Tribunals of Inquiry (Evidence) (Amendment) Act, 1979 ;

“Act of 1998” means Tribunals of Inquiry (Evidence) (Amendment) (No. 2) Act, 1998 ;

“Court” means High Court;

“investigator” means a person appointed by a tribunal in accordance with section 6 to be an investigator;

“Principal Act” means Tribunals of Inquiry (Evidence) Act, 1921 ;

“a tribunal” means a tribunal to which the Principal Act is applied under section 1 of that Act.

(2) In this Act—

(a) a reference to a section is a reference to a section of this Act unless it is indicated that reference to some other enactment is intended, and

(b) a reference to a subsection is a reference to the subsection of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

2.—[See s.1(2A) of the Principal Act above]

3.—(1) If, on receipt by the person to whom a tribunal is required, by the instrument by which it is appointed or any instrument amending it, to report of an interim or the final report of the tribunal, that person considers that the publication of the report might prejudice any criminal proceedings, that person may apply to the Court for directions regarding the publication of the report.

(2) Before the Court determines an application under subsection (1), it shall direct that notice of it be given to—

(a) the Attorney General,

(b) the Director of Public Prosecutions, and

(c) a person who is a defendant in criminal proceedings relating to an act or omission that—

(i) is described or mentioned in the report concerned, or

(ii) is related to any matter into which the tribunal concerned inquired and which is so described or mentioned,

and the Court may receive submissions, and evidence tendered, by or on behalf of any such person.

(3) On an application under subsection (1) the Court may, if it considers that the publication of the report concerned might prejudice any criminal proceedings, direct that the report or a specified part of it be not published—

(a) for a specified period, or

(b) until the Court otherwise directs.

(4) An application under subsection (1) may be heard otherwise than in public if the Court considers that it is appropriate to do so.

4.—[See s.2 of the 1979 Act above]

5.—(1) One or more persons may be appointed to be a reserve member or members of a tribunal by—

- (a) the instrument by which the tribunal is appointed, or
- (b) an instrument amending that instrument.

(2) A reserve member of a tribunal may—

- (a) sit with the member or members of the tribunal during its proceedings and consider any oral evidence given, and examine any documents or things that are produced or sent in evidence, to the tribunal, and
- (b) be present at the deliberations of the tribunal,

but may not otherwise participate in those proceedings or deliberations and may not seek to influence the tribunal in its decisions or determinations.

(3) If a member of a tribunal is for any reason unable to continue to act as such member, whether temporarily or for the remainder of the tribunal's inquiry, a reserve member of the tribunal may be appointed to be a member of it.

(4) An appointment under subsection (3) shall be deemed, other than for the purposes of subsection (5), to be operative from the date on which the person concerned was appointed to be a reserve member of the tribunal concerned or such later date as may be specified in the amendment under subsection (6) of the instrument by which the tribunal concerned was appointed giving effect to the appointment.

(5) An appointment under subsection (3) shall not affect decisions, determinations or inquiries made or other actions taken by the tribunal concerned before such appointment.

(6) An appointment under subsection (1)(b) or (3) shall be made by an amendment under section 1A (inserted by section 1 of the Act of 1998) of the Principal Act of the instrument by which the tribunal concerned was appointed, and may be so made notwithstanding the fact that the tribunal concerned, while consenting to or requesting the making of the appointment, does not consent to the appointment of the particular person.

6.—(1) A tribunal may, with the approval of—

- (a) the Government, if it was appointed by the Government, or
- (b) the Minister of the Government by whom it was appointed and the consent of the Minister for Finance,

appoint such and so many persons to be investigators to perform the functions conferred on investigators by this section.

(2) The appointment of an investigator shall be for such term and subject to such other terms and conditions (including terms and conditions relating to remuneration and allowances for expenses) as the tribunal concerned may, with the approval of—

- (a) the Government, if it was appointed by the Government, or
- (b) the Minister of the Government by whom it was appointed and the consent of the Minister for Finance,

determine.

(3) Whenever an investigator is so requested by the tribunal by which he or she was appointed, he or she shall, for the purpose of assisting it in the performance of its functions and subject to its direction and control, carry out a preliminary investigation of any matter material to the inquiry to which the tribunal relates.

(4) An investigator may, for the purposes of a preliminary investigation under subsection (3), require a person to—

- (a) give to him or her such information in the possession, power or control of the person as he or she may reasonably request,
- (b) send to him or her any documents or things in the possession, power or control of the person that he or she may reasonably request, or
- (c) attend before him or her and answer such questions as he or she may reasonably put to the person and produce any documents or things in the possession, power or control of the person that he or she may reasonably request,

and the person shall comply with the requirement.

(5) An investigator may examine a person mentioned in subsection (4) in relation to any information, documents or things mentioned in that subsection and may reduce the answers of the person to writing and require the person to sign the document containing them.

(6) Where a person mentioned in subsection (4) fails or refuses to comply with a requirement made to the person by an investigator under that subsection, the Court may, on application to it in a summary manner in that behalf made by the investigator with the consent of the tribunal concerned, order the person to comply with the requirement and make such other (if any) order as it considers necessary and just to enable the requirement to have full effect.

(7) A person to whom a requirement under subsection (4) is made shall be entitled to the same immunities and privileges as if he or she were a witness before the Court.

(8) An investigator shall not, without the consent of the tribunal by which he or she was appointed, disclose other than to that tribunal any information, documents or things obtained by him or her in the performance of his or her functions under this section.

(9) An investigator shall be furnished with a warrant of appointment and when performing a function under this section shall, if so requested by a person affected, produce the warrant or a copy of it to the person.

**7.—**(1) A person who, without reasonable cause, by act or omission obstructs or hinders an investigator in the performance of his or her functions under section 6, or fails or refuses to comply with a requirement made to the person under subsection (4) of that section, shall be guilty of an offence.

(2) A prosecution for an offence under this section may be brought only by or with the consent of the Director of Public Prosecutions.

(3) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding 12 months or both.

**8.—**A statement or admission made by a person before an investigator shall not be admissible as evidence against the person in any criminal proceedings.

**9.—**(1) [See s.1(2A) of the Principal Act above]

(2) Subsection (1) shall apply in respect of offences committed after the passing of this Act irrespective of whether the tribunal concerned was appointed before or after such passing.

**10.—**(1) Subject to section 9 (2) and subsections (2) and (3), this Act shall apply to tribunals appointed after the passing of this Act.

(2) Sections 4 and 5 shall apply to tribunals appointed before or after the passing of this Act.

(3) Section 6 shall not apply to a tribunal appointed before the passing of this Act unless such application is provided for by an amendment under section 1A (inserted by section 1 of the Act of 1998) of the Principal Act of the instrument by which the tribunal was appointed.

**11.—**(1) Any expenses incurred by the Minister for Finance in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

(2) Any expenses incurred by any other Minister of the Government in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

**12.—**(1) This Act may be cited as the Tribunals of Inquiry (Evidence) (Amendment) Act, 2002.

(2) The Tribunals of Inquiry (Evidence) Acts, 1921 to 1998, and this Act may be cited together as the Tribunals of Inquiry (Evidence) Acts, 1921 to 2002.

## **TRIBUNALS OF INQUIRY (EVIDENCE) (AMENDMENT) ACT, 2004**

AN ACT TO AMEND THE TRIBUNALS OF INQUIRY (EVIDENCE) ACTS 1921 TO 2002. [5<sup>TH</sup> May, 2004]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

“1979 Act” means Tribunals of Inquiry (Evidence) (Amendment) Act 1979;

“1997 Act” means the Tribunals of Inquiry (Evidence) (Amendment) Act 1997.

2.—(1) [See s.6 of 1997 Act above]

(2) The amendment effected by subsection (1) of this section applies to—

(a) tribunals appointed, and

(b) costs incurred,

before or after the passing of this Act

3.—(1) [See s.4 of the 1997 Act above]

(2) The amendments effected by subsection (1) of this section apply to tribunals appointed before or after the passing of this Act.

4.—(1) This Act may be cited as the Tribunals of Inquiry (Evidence) (Amendment) Act 2004.

(2) The Tribunals of Inquiry (Evidence) Acts 1921 to 2002 and this Act may be cited together as the Tribunals of Inquiry (Evidence) Acts 1921 to 2004.

**COMMISSION OF INVESTIGATION ACT 2004**

45. —(1) If a tribunal is established to inquire into a matter all or part of which was within a commission’s terms of reference, all evidence received by and all documents created by or for the commission relating to the matter or that part of the matter shall, at the request of any member of the tribunal, be made available to it by—

(a) the specified Minister, if the commission has been dissolved, or

(b) the commission, if not already dissolved.

(2) Nothing in this section prevents a commission whose terms of reference are amended under section 44(2) from retaining copies of any evidence or documents made available by it to a tribunal of inquiry.

(3) Evidence that is received by a commission in accordance with this Act or with its rules and procedures and that is made available to a tribunal under subsection (1) is deemed to have been received as evidence by the tribunal in accordance with the Tribunals of Inquiries (Evidence) Acts 1921 to 2004.

## **CIVIL LAW (MISCELLANEOUS PROVISIONS) ACT 2011**

### **Part 15- Tribunals of Inquiry**

**44.—** In this Part—

“relevant material”, in relation to a tribunal, means all material which is evidence received by, or a document created by or for, the tribunal whatsoever (including any document which is incomplete or in draft form only);

“responsible Minister”, in relation to a tribunal, means the Minister of the Government to whom the appropriation-in-aid was granted out of which the expenses of the tribunal are paid;

“tribunal” means a tribunal to which the Tribunals of Inquiry (Evidence) Act 1921 is applied under section 1 of that Act.

**45.—** This Part applies to a tribunal irrespective of whether the tribunal is appointed before, on or after the enactment of this Part.

**46.—** (1) Where a tribunal has completed its inquiry or has indicated to the responsible Minister that it is about to complete its inquiry, the responsible Minister shall, as soon as it is practicable for him or her to do so and subject to the consent of the Minister for Finance, by notice in writing given to the chairman of the tribunal, require the chairman to deposit the relevant material—

(a) with such person who is, or at such place which is, specified in the notice, and

(b) within the period specified in the notice for the purpose.

(2) For the purposes of assisting the chairman of a tribunal to perform his or her functions under subsection (4) or (5) in a manner that is as efficient, effective and expeditious as is practicable, the responsible Minister may set out in a notice under subsection (1) guidelines in respect of the performance of those functions by the chairman.

(3) Subject to subsection (5), the chairman of a tribunal shall comply with the requirements of a notice under subsection (1) (including any guidelines set out in the notice) given to the chairman in respect of the relevant material.

(4) The chairman of a tribunal may, in the course of complying with the requirements of a notice under subsection (1) given to the chairman in respect of the relevant material, and after having regard to section 47, cause that material to be accompanied by his or her—

- (a) opinion in writing as to which parts of that material, if any, need, in particular, to be considered for the purposes of section 47 (2), and
  - (b) reasons in writing for holding the opinion referred to in paragraph (a).
- (5) Subject to subsection (6), the chairman of a tribunal to whom a notice under subsection (1) has been given in respect of the relevant material may, with the consent of the responsible Minister, return any part of that material to the person who gave the part concerned to the tribunal if—
- (a) the chairman is satisfied that—
    - (i) the retention of the part concerned is not necessary in order to understand any of the following:
      - (I) any of the proceedings of the tribunal;
      - (II) any interim report of the tribunal;
      - (III) the final report of the tribunal;
    - and
    - (ii) the part has little, if any, historical worth or relevance to either—
      - (I) the matter that the tribunal was established to inquire into, or
      - (II) the findings of the tribunal,
    - and
  - (b) the chairman—
    - (i) has prepared a record which gives a general description of the part of the relevant material concerned, specifies the name and address of the person to whom the part is to be returned and specifies the basis or bases on which the chairman is, in respect of that part, satisfied as described in paragraph (a), and
    - (ii) ensures that such record accompanies the relevant material which is not returned to any person pursuant to this subsection.
- (6) Where the chairman of a tribunal would, pursuant to subsection (5), return a part of the relevant material to the person who gave the part concerned to the tribunal but for the fact that—
- (a) the person has declined to accept the return of the part, or

(b) the whereabouts of the person cannot be reasonably ascertained,

then—

(i) the chairman may, with the consent of the responsible Minister, cause the part to be disposed of in such manner as the chairman thinks proper, and

(ii) the chairman shall—

(I) prepare a record which gives a general description of the part, specifies the name and address of the person who has declined to accept the return of the part (if paragraph (a) is applicable), specifies the name of the person to whom it is sought to return the part but whose whereabouts cannot be reasonably ascertained (if paragraph (b) is applicable), specifies the basis or bases on which the chairman is, in respect of that part, satisfied as described in paragraph (a) of subsection (5) and specifies the manner of disposal of the part, and

(II) ensure that such record accompanies the relevant material which is not returned to any person pursuant to subsection (5) or otherwise disposed of pursuant to this subsection.

(7) Where a tribunal has ceased to be seized of the relevant material (whether pursuant to the provisions of this section or otherwise), nothing in this section shall be construed to prevent the responsible Minister, or another Minister of the Government for the time being responsible for the storage of the material, from causing the material to be deposited from time to time with such person, or at such place, as the responsible Minister, or that other Minister of the Government, as the case may be, thinks proper.

**47.—** (1) Any relevant material of a tribunal (other than any part of such relevant material which falls within section 46 (5) or (6)) that constitutes Departmental records within the meaning of section 2 (2) of the National Archives Act 1986 is, on the expiry of 30 years after the date of the dissolution of the tribunal, deemed to have been prescribed under section 8(11) of that Act as a class of records to which a certificate granted under section 8(4) of that Act may relate.

(2) As soon as is practicable after the date on which any relevant material of a tribunal is deemed to have been prescribed as described in subsection (1), an officer of a Department of State authorised for the purposes of section 8 (4) of the National Archives Act 1986 shall consider whether, after having regard to any opinion and reasons referred to in section 46 (4) that the chairman of the tribunal caused to accompany the material and subject to any consent required under that section 8(4), the material, or specified parts of it, should be certified under that section 8(4).

(3) Subject to subsections (1) and (2), the National Archives Act 1986 applies to any relevant material of a tribunal (other than any part of such relevant material which falls within section 46 (5) or (6)) that constitutes Departmental records within the meaning of section 2(2) of that Act.

**48.**— (1) The Freedom of Information Acts 1997 and 2003 do not apply to a record relating to the inquiry into any matter by a tribunal unless—

- (a) the record was created before the appointment of the tribunal, or
- (b) the record relates to the expenses of the tribunal or other matters concerning the general administration of the tribunal.

(2) Subsection (1) applies whether the record concerned is—

- (a) held by the tribunal, or
- (b) deposited with a person, or at a place, in compliance with the requirements of a notice under section 46 (1) given to the chairman or former chairman, as the case may be, of the tribunal.

(3) In this section, “record” has the same meaning as in the Freedom of Information Acts 1997 and 2003.

### **DEFAMATION ACT 2009**

**17.**— (1) It shall be a defence to a defamation action for the defendant to prove that the statement in respect of which the action was brought would, if it had been made immediately before the commencement of this section, have been considered under the law in force immediately before such commencement as having been made on an occasion of absolute privilege.

(2) Subject to section 11(2) of the Committees of the Houses of the Oireachtas (Compellability, Privileges and Immunities of Witnesses) Act 1997, and without prejudice to the generality of subsection (1), it shall be a defence to a defamation action for the defendant to prove that the statement in respect of which the action was brought was—

- (a) made in either House of the Oireachtas by a member of either House of the Oireachtas,
- (b) contained in a report of a statement, to which paragraph (a) applies, produced by or on the authority of either such House,
- (c) made in the European Parliament by a member of that Parliament,
- (d) contained in a report of a statement, to which paragraph (c) applies, produced by or on the authority of the European Parliament,
- (e) contained in a judgment of a court established by law in the State,
- (f) made by a judge, or other person, performing a judicial function,

- (g) made by a party, witness, legal representative or juror in the course of proceedings presided over by a judge, or other person, performing a judicial function,
- (h) made in the course of proceedings involving the exercise of limited functions and powers of a judicial nature in accordance with Article 37 of the Constitution, where the statement is connected with those proceedings,
- (i) a fair and accurate report of proceedings publicly heard before, or decision made public by, any court—
  - (i) established by law in the State, or
  - (ii) established under the law of Northern Ireland,
- (j) a fair and accurate report of proceedings to which a relevant enactment referred to in section 40 of the Civil Liability and Courts Act 2004 applies,
- (k) a fair and accurate report of proceedings publicly heard before, or decision made public by, any court or arbitral tribunal established by an international agreement to which the State is a party including the Court of Justice of the European Communities, the Court of First Instance of the European Communities, the European Court of Human Rights and the International Court of Justice,
- (l) made in proceedings before a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas,
- (m) made in proceedings before a committee of the European Parliament,
- (n) made in the course of proceedings before a tribunal established under the Tribunals of Inquiry (Evidence) Acts 1921 to 2004, where the statement is connected with those proceedings,
- (o) contained in a report of any such tribunal,
- (p) made in the course of proceedings before a commission of investigation established under the Commissions of Investigation Act 2004, where the statement is connected with those proceedings,
- (q) contained in a report of any such commission,
- (r) made in the course of an inquest by a coroner or contained in a decision made or verdict given at or during such inquest,
- (s) made in the course of an inquiry conducted on the authority of a Minister of the Government, the Government, the Oireachtas, either House of the Oireachtas or a court established by law in the State,

(t) made in the course of an inquiry conducted in Northern Ireland on the authority of a person or body corresponding to a person or body referred to in paragraph (s),

(u) contained in a report of an inquiry referred to in paragraph (s) or (t),

(v) made in the course of proceedings before an arbitral tribunal where the statement is connected with those proceedings,

(w) made pursuant to and in accordance with an order of a court established by law in the State.