Aquaculture Licences Appeals Board

Reference Booklet

Sections 15 & 16 of the Freedom of Information Act

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# Section 1.0 - How to use this reference book…

## 1.1 Purpose of this Reference Booklet

This reference book has been published in accordance with the requirements set out in Section 15 and 16 of the Freedom of Information Act 1997 (the “Act”). The purpose of this book is to facilitate access to information held by the Aquaculture Licences Appeals Board by setting out the following details:

(a) procedures under the Act;

(b) structure and organisation;

(c) functions and services; and

(d) classes of records held.

The information contained in this reference book relating to the Act is intended as a general guide and does not purport to be a definitive statement in relation to Freedom of Information.

## 1.2 Freedom of Information (“FOI”)

If you wish to make an application under the Act, this booklet will guide you through the requirements of the application process. Section 2 highlights the type of information covered by the Act, how to make a request under the Act and gives details of each step of your application.

## 1.3 The Aquaculture Licences Appeals Board General Information

Sections 3–10 of this reference book give you information on the overall structure and functions of the Aquaculture Licences Appeals Board. These sections are designed to give the public a comprehensive overview of the internal structure of the Aquaculture Licences Appeals Board and also to help members of the public who make a request under the Act to be as accurate as possible when describing the record sought.

If you have any queries in relation to this reference book or in relation to any aspect of the Act relating to the Aquaculture Licences Appeals Board, please contact:

The Secretary

Aquaculture Licences Appeals Board (ALAB)

Kilminchy Court

Dublin Road

Portlaoise

Co Laois

e-mail: info@alab.ie

## 1.4 Where to obtain copies

Copies of this reference book are available on ALAB’s website: **www.alab.ie.ction 2.0 - Freedom o**

# Section 2.0 – Freedom of Information Act 1997 as amended

## 2.1 Introduction

ALAB currently makes a certain amount of documentation, including ALAB’s annual reports, available to the public. The public may obtain access to this information without making a request under the Act. For further information and to access this information please see our website at **www.alab.ie** or contact ALAB Head Office at:

Aquaculture Licences Appeals Board (ALAB),

Kilminchy Court,

Dublin Road,

Portlaoise,

Co Laois.

The Freedom of Information Act came into operation on 21 April 1998 and provides for the following:

(a) The public have the right to access records held by public bodies;

(b) People have the right to have access to personal information held by a public body in relation to them and to have such amended if the information is inaccurate, incomplete or misleading; and

(c) Public bodies must give reasons for administrative decisions to persons affected by those decisions.

## 2.2 What information is covered by the Act?

The Act allows the public access to records held by public bodies. ALAB is prescribed as a public body under the Act from 31 May 2006. From that date the public may have access to records held by ALAB. Records are defined widely in the Act and include manual records, electronic records, diagrams and sound recordings.

## 2.3 What types of record are not covered by the Act?

In general, the Act does not permit access to records created before 21 April 1998. However, in certain circumstances the public may request access to a record created before 21 April 1998. These are as follows:

(a) where the information is personal information of the requester; and

(b) where the record is necessary or expedient in order to explain the contents of a record created after 21 April 1998.

The Act attempts to strike a balance between the public’s right to access records held by public bodies and an individual’s right to privacy. In doing so, certain categories of information are exempted from the remit of the Act, including commercially sensitive information and personal information. Information that is otherwise available to the public is also excluded from the scope of the Act.

## 2.4 How do I apply for access to records?

When applying to ALAB for information under the Act, your application should be as follows:

(a) your application should be in writing;

(b) the application should expressly state that you are applying for access to a record under the Freedom of Information Act, 1997 as amended;

(c) if you require the record in a particular form, e.g. photocopy, computer disk, your application should specify that form;

(d) include as much detail as possible in relation to the record sought to assist ALAB in identifying exactly which record you require;

(e) include contact details, as it will be necessary for ALAB to contact you in relation to your application;

and

(f) you may be required to prove your identity and may be asked to provide a copy of your drivers licence, passport, birth certificate etc.

All applications to ALAB for access to records under the Act should be addressed as follows:

ALAB,

Kilminchy Court,

Dublin Road,

Portlaoise,

Co Laois

## 2.5 How does ALAB process my application?

ALAB is obliged to acknowledge receipt of your request within two weeks and to decide on your application within four weeks. This four week time limit may be extended by an additional three weeks where third parties are consulted during the decision making process (as detailed in the Act) and by an additional four weeks in certain other limited circumstances including where meeting the original time limit is not possible due to the quantity of documents requested.

Where ALAB fails to respond to your request within the applicable time limit, this amounts to a refusal of your request. If ALAB grants your request for access to information, you will also be notified of the fee (if any) and the form of access.

In general, you will have four weeks from receipt of this notification to access your record, subject to payment of any fee. ALAB may refuse access to information where the record sought falls into an exempted category. This includes records that relate to personal information of a third party or information that is commercially sensitive.

## 2.6 How do I apply for internal review?

If ALAB refuses access and you disagree with the decision, you may apply for an internal review of the decision. You may also apply for an internal review on other grounds including the level of fees and where the record is not given to you in the form you requested. A request for internal review must be submitted to ALAB in writing to the address in paragraph 2.4 above, within four weeks of receipt of the notification of refusal. ALAB will then have another three weeks to issue a decision. Where ALAB fails to respond to your application within the applicable time limit, this amounts to an affirmation of the original decision of ALAB. A Board member will carry out the internal review.

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## 2.7 What can I do if I am still unhappy with the decision?

Where you are still dissatisfied with the decision, you may appeal to the Office of the Information Commissioner (“OIC”). Generally, applications for appeal must be made within six months of the decision of internal review. Some types of appeal have a shorter time limit and if you are dissatisfied with the outcome of internal review, you should contact the OIC as soon as possible.

**The Office of the Information Commissioner,**

18 Lower Leeson Street,

Dublin 2

Tel: (01) 639 5689

Fax: (01) 639 5674

Email: foi@ombudsman.irlgov.ie

## 2.8 Freedom of Information: Applicable Charges

**Information in respect of Charges for FOI enquiries as per Freedom of Information (amended) Act, 2003**

**(a) Application Fees**

There is no application fee if your request is for personal information only. If your request is for a record containing non-personal information, an application fee of EUR15 (EUR10 if you are a medical card holder) must accompany your request.

**(b) Search and Retrieval and Copying Fees**

Fees also apply in respect of the time spent searching and retrieving records that are released to you on foot of you request and in respect of the copying of any records released. Such fees are unlikely to arise if your request is for personal information. The rates of these fees are as follows:

• EUR20.95 per hour of search and retrieval

• EUR0.04 per sheet for a photocopy

• EUR0.51 for a three and a half inch computer diskette containing copy documents

• EUR10.16 for a CD-ROM containing copy documents

**(c) Deposits**

A deposit is payable where the estimated cost of search and retrieval of records sought is

estimated to exceed EUR50.79. In such a case, every effort must be made to assist the requester to amend the request so as to reduce or eliminate the amount of the deposit.

**(d) Reductions and Waivers**

* A fee in respect of search and retrieval and copying of records will be waived where the cost of collecting and accounting for the fee would exceed the amount of the fee itself (a guideline of less than EUR10 is used in this respect);

• A fee in respect of search and retrieval and copying of records or a deposit may be reduced or waived where the information in the record would be of particular assistance to the understanding of an issue of national importance.

* A charge applies to most internal and independent reviews (Information Commissioner) concerning access to non-personal records. There is a reduction for medical card holders. These will be notified to you at the appropriate time by the relevant public body.

## 2.9 How do I apply to have personal information amended?

Where personal information in a record held by ALAB is incomplete, inaccurate or misleading, you may apply to ALAB Head Office in writing (at the address in paragraph 2.4 above) to have the record amended. ALAB may alter the record, add to the record or delete the record. A decision will be made by ALAB within four weeks of receipt of your application. Where the request is not successful, a copy of the application will be attached to the record. If this is not possible, a notation that the application was made will be attached.

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## 2.10 How can I obtain reasons for administrative decisions?

Any person who is affected by an act of a public body and who has a material interest in such an act is entitled to the reasons for an act of the public body. The application for these reasons in relation to ALAB should be made in writing to ALAB Head Office (at the address in paragraph 2.4 above).

ALAB has four weeks to respond and the response should include:

(a) reasons for the act; and

(b) any findings on any material issues of fact made in relation to the act.

Reasons will not be given where they would require disclosure of any of the exempted records under the Act (i.e. commercially sensitive information) or where they relate to certain public appointments.

**Section 3.0 - About BIM**

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**Section 16**

# Section 3.0 – About the Aquaculture Licences Appeals Board

## 3.1 Introduction

The Aquaculture Licences Appeals Board was established on 17 June 1998 under *Section 22* of the Fisheries (Amendment) Act, 1997. All Board members are engaged on a part-time basis.

## 3.2 Status of the Board

The Board is an independent body with its own funding provided for by the Oireachtas under *Section 36* of the Act.

## 3.2 Function of the Board

The function of the Board is to provide an independent authority for the determination of appeals against decisions of the Minister for Agriculture, Food and the Marin on aquaculture licence applications. A person aggrieved by a decision of the Minister on an aquaculture licence application, or by the revocation or amendment of an aquaculture licence, may make an appeal within one month of publication (in the case of a decision) or notification (in the case of revocation/amendment).

# Section 4.0 – The Aquaculture Licences Appeals Board Organisation Structure

## 4.1 Membership of the Board

As provided for under Section 23 of the Fisheries (Amendment) Act, 1997, the Board consists of a Chairman and six other members. Details are available on the Board’s website.

## 4.2 Composition of Board

In accordance with *Section 23(3)* of the Act, the Minister made regulations prescribing not less than two organisations representative of each of the following groupings:

(a) organisations concerned with the promotion of the development of aquaculture or representative of persons carrying on the business of developing aquaculture;

(b) organisations concerned with the conservation, development and protection of wild fisheries;

(c) organisations representative of persons whose professions or occupations relate to physical planning and development;

(d) organisations representative of persons concerned with the protection and

preservation of the environment and amenities;

(e) organisations representative of persons concerned with the promotion of general economic development and

(f) organisations representative of persons concerned with the promotion of community development.

## 4.3 Responsibilities of the Board

The main responsibilities and powers of the Board are set out below:

Under *Section 40(4)* of the Act, on receipt of an appeal by the Board and provided it is not withdrawn, the Board can determine the appeal by:

1. confirming the decision or action of the Minister

(b) determining the application for the licence as if the application had been made to the Board in the first instance or

(c) in relation to the revocation or amendment of a licence, substituting its decision on the matter for that of the Minister;

Under *Sections 43 and 44* of the Act, the Board must send a copy of the notice of appeal to the Minister and to each other party to the appeal;

Under *Section 46* of the Act, the Board can request submissions or observations from parties or other persons who have already made submissions or observations to the Board in relation to an appeal, if, in the opinion of the Board and in the circumstances, it is in the interests of justice to do so;

Under *Section 47* of the Act, the Board can request documents, particulars or other information it considers necessary for the purpose of enabling it to determine an appeal;

Under *Section 49* of the Act, the Board has the absolute discretion to hold an oral hearing of an appeal;

Under *Section 56* of the Act, the Board shall ensure that appeals are dealt with and determined expeditiously and that all steps are taken to avoid unnecessary delay.

## 4.4 Technical Advisor

The role and function of the technical advisor is to assess the technical aspects of appeals as they are submitted to the Board. This assessment culminates in the compilation of a written report, including conclusions and recommendations and is submitted to the Board as part of their determination of an appeal

## 4.5 Freedom of Information

The ALAB FOI Officer reports to the Audit Committee of ALAB and assists in ensuring that ALAB meets its obligations under the Act.

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## 4.6 Secretary to the Board

**(a) Role and function of the Secretary to the Board**

The main function of the Secretary is the provision of a comprehensive secretariat and support service to the Board and its members and any Sub-Committees of the Board.

In addition, the Secretariat:

(i) ensures that the Ethics in Public Office Acts, 1995-2001 are complied with;

(ii) ensures that good corporate governance is practised in ALAB;

(iii) seeks legal advice on legislation relevant to the day to day functions of ALAB in providing its services.

**(b) Classes of records held by the Secretary include:**

(i) Board/Committees - Agenda/Minutes

(ii) General Correspondence

## 4.7 Classes of Records held by the Board

The following records are held by the Aquaculture Licences Appeals Board:

* Individual files containing details of appeals received and records of decisions on these appeals.
* Minutes of the Aquaculture Licences Appeals Board meetings.
* Minutes of Sub-Committee meetings.
* Technical Advisor Reports.