

| Summary of Regulatory Impact Analysis (RIA)   |   |   |   |
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| <b>Department/Office:</b> Arts, Heritage and the Gaeltacht  |   | <b>Title of Legislation:</b> National Archives Act, 1986 (amendment to)   |   |
| <b>Stage:</b> Consultation with Departments prior to submission of draft Memo for Government by Minister for Arts, Heritage & the Gaeltacht   |   | <b>Date:</b> October 2014   |   |
| <b>Related Publications:</b> National Archives Act, 1986  |   |   |   |
| <b>Available to view or download at:</b><br><a href="http://www.irishstatutebook.ie/1986/en/act/pub/0011/index.html">http://www.irishstatutebook.ie/1986/en/act/pub/0011/index.html</a>   |   |   |   |
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| <b>What policy options have been considered? Please summarise the costs, benefits and impacts relating to each of the option below and indicate whether a preferred option has been identified.</b>   |   |   |   |
| <div>1. To reduce from 30 to 20 years the period after which Government* records must be transferred to the National Archives.</div> <div>2. To reduce, on a phased basis, from 30 to 20 years the period after which Government records must be transferred to the National Archives and, to implement initially in Departments and Offices with significant records relating to Anglo-Irish matters.</div> <div>3. To maintain the current 30 year rule for the transfer of Government records to the National Archives.</div> <div>Option 2 is the preferred option.</div> <div>* Government records refers to Departmental, Offices and Courts records.</div> |   |   |   |
| OPTIONS   |   |   |   |
|   | COSTS   | BENEFITS  | IMPACTS   |
| 1   | Resource and staffing implications estimated at in excess of €1m. | Improve compliance rates for the transfer of records to the National Archives<br><br>To bring access to Irish records in line with recent changes to 20 year access in the UK | Significant staff & resource implications for Departments, Offices, the Courts and the National Archives<br><br>Cost of temporary storage of files in the National Archives |

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| 2 | Resource and staffing implications estimated at in excess of €1m, over a phased implementation period. | <p>Improve compliance rates for the transfer of records to the National Archives</p> <p>To bring access to Irish records in line with recent changes to 20 year access in the UK</p> <p>Phased implementation will allow the cost to be spread over a longer period</p> | <p>Significant staff &amp; resource implications for Departments, Offices, the Courts and the National Archives</p> <p>Cost of temporary storage of files in the National Archives</p> |
| 3 | No costs.  | No additional costs for the State   | Irish citizens, historians, media etc. would not have the same access to Irish Government records as the United Kingdom.   |

## **Section 1 -Policy Context**

Under the National Archives Act, 1986, Government Departments, Offices and the Courts have a statutory obligation to transfer records older than 30 years, subject to certain exemptions, to the National Archives. Recent legislative changes in the United Kingdom provided new arrangements for public access to the archival records of government after 20 years and not 30 years as had previously been the case. The legislation was introduced in the UK in 2010 after an extensive consultation process and the early release of records began in 2013 in the UK.

The new "*20-year access rule*" in the United Kingdom is being implemented on a phased basis over a ten year period from mid-2013 to 2023. When the National Archives released the official records of Irish government for 1983 in January 2014, the UK National Archives and Public Record Office of Northern Ireland released 1983 and 1984 official records. Both the UK National Archives and the Public Record Office of Northern Ireland will release further records in this manner over a ten year period until such time as all records of 20 years old or more will be accessible to the public. Meanwhile the National Archives here, unless there is legislative change, will continue to release records that are 30 years old only, in accordance with the current legal provision in Ireland. Irish citizens now do not have the same access to Government records as our British and Northern Irish neighbours. Until 2013 there was a synchronised release of official records which is particularly relevant for records regarding Anglo-Irish relations. The changes to the British system have also highlighted the lack of compliance on the current 30 year rule in Ireland at present.

## **Section 2 - Statement of Policy Objectives**

Long-term Objective: To provide citizens with access to Government records 20 years after the records creation.

Immediate Objectives: To maintain synchronicity with the United Kingdom of release of Government records relating to Anglo-Irish matters.

To improve compliance rates among Government Departments for the transfer of records to the National Archives.

## **Section 3 - Identification of Policy Options**

### **Option 1: Implement a 20 year public access rule for Government records across all Departments:**

This approach would have very significant resource implications, for the State. This change would require each Government Department to process an additional ten year accumulation of records during the implementation period.

### **Option 2: A phased introduction of a 20 year public access rule for Government records, initially implementing in Departments with significant records relating to Anglo-Irish relations.**

This would ensure that United Kingdom records were not released in advance of the Irish equivalents. It is not desirable to have a 'two tier' system of archival release in place for an extended period of time and engagement would proceed with all Government Departments to devise a plan to move to a 20 year rule for all Government Departments.

**Option 3: 'No Policy Change' i.e. maintain the 30 year public access rule for Government records:**

It is anticipated that there would be a significant negative reaction to the development of a ten year delay between the release of Irish and United Kingdom records on the matters pertaining to Anglo-Irish negotiations.

**Section 4 - Analysis of Costs, Benefits and Impacts**

| <b>Option</b>  | <b>Costs</b>   | <b>Benefits</b>   | <b>Impacts</b>  |
|--|--|---|---|
| Implement a 20 year public access rule for Government records across all Departments, Offices and the Courts   | Resource and staffing implications in excess of €1m                                      | To bring access to Irish records in line with recent changes to 20 year access in the UK  | Synchronicity with the United Kingdom of release of Anglo-Irish records would be maintained<br><br>Improved compliance rates for the transfer of records to the National Archives |
| A phased introduction of a 20 year public access rule for Government records, initially implementing in Departments and Offices with significant records relating to Anglo-Irish relations | Resource and staffing implications in excess of €1m, over a phased implementation period | To bring access to Irish records in line with recent changes to 20 year access in the UK<br><br>Phased implementation will allow the cost to be spread over a longer period | Synchronicity with the United Kingdom of release of Anglo-Irish records would be maintained<br><br>Improved compliance rates for the transfer of records to the National Archives |
| No Policy Change   | No additional costs  | No additional costs to the State  | Anticipated negative reaction to the development of a ten year delay between the release of Irish and United Kingdom records on matters pertaining to Anglo-Irish negotiations.   |

## **Impacts**

- **National Competitiveness**  
No impact
- **Socially excluded and vulnerable groups**  
No impact
- **The environment**  
No impact
- **Economic Market**  
No impact
- **The rights of citizens**  
Rights of citizens improved through earlier provision of access to records of State 20 years after their creation, rather than the current 30 years.
- **Compliance Burden**  
Increased compliance burden during implementation period for Government Departments.
- **North-South and East-West Relations**  
No impact envisaged on East-West relations. North-South relations could potentially be negatively impacted if a ten-year gap is allowed to develop in the provision of access to records between the United Kingdom and Ireland.

## **Section 5 - Consultation**

This memo was subject to review by an inter-Departmental Group comprising:

- Department of An Taoiseach
- Department of Justice and Equality
- Department of Foreign Affairs
- Department of Arts, Heritage and the Gaeltacht
- Office of the Attorney General
- The National Archives

The memo was also the subject of informal bilateral discussions with the Department of Public Expenditure and Reform.

## **Section 6 - Enforcement and Compliance**

There is currently some work to be done to bring Departments into full compliance with the existing 30 year rule and adequate resourcing will need to be provided for, both within Departments and within the National Archives, to ensure compliance with current or amended regulations.

## **Section 7- Review**

Compliance levels on the current 30 year rule are included in the National Archives annual report and this mechanism is intended to continue.

## **Section 8 - Publication**

The RIA will be published on the Department's website.