

General Questions about the Official Languages Act

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1) **What is the constitutional position of the Irish language?**

The status of the Irish language is set out in article 8 of the Irish Constitution which states that:

- The Irish language as the national language is the first official language.
- English is recognised as a second official language.
- Provision may, however, be made by law for the exclusive use of either of the said languages for any one or more official purposes, either throughout the State or in any part thereof.

The Constitution permits the public to conduct its business – and every part of its business – with the State solely through Irish. As a result, public bodies have a duty to comply with this right.

In practice, however, it often happened that no effective provision was made to provide services in Irish as well as providing services in English. Furthermore, people who wished to conduct their business in Irish with the State often felt that they had no option except to set aside their constitutional rights and their choice of language and resort to using English, the second official language, in order to conduct their business properly.

Until the Official Languages Act came into effect, people had no choice except to resort to the courts in order to obtain their constitutional language rights. As a result of these cases, various courts have considered the status of the Irish language under the Constitution over a number of years. For further information on specific cases, see www.coimisineir.ie/rights

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2) What is the background to the Official Languages Act?

Irish was a compulsory requirement for employment in the public sector until 1974. The government of the day decided that Irish and English would be put on an equal footing in the entrance examinations for the civil service i.e. that candidates would be able to use Irish or English, or both languages, in competitions and that recognition would be given to candidates who were competent in both languages. In the following years the ability of the civil service to provide an effective service for those wishing to conduct their business through Irish decreased.

Towards the end of the 1970s, the Irish language movement, particularly Conradh na Gaeilge, began a campaign for a Language Rights Bill or a Language Act and the debate on the issue continued for more than twenty years.

In 1993, the government published guidelines prepared by Bord na Gaeilge (the state body for the Irish language) on the services through Irish which were to be provided by the public service. These guidelines had no statutory basis nor was there any effective monitoring system to ensure that they would be implemented. As a result, very few state bodies operated in accordance with those guidelines.

In 2002 the government published the first draft of a bill aimed at providing more services of a higher quality through Irish in the public sector. The bill was debated and various amendments were made to it until it was passed unanimously by both the Dáil and the Seanad in summer 2003.

On 14 July 2003, the President signed the Official Languages Act 2003 into law and the provisions of the Act were gradually brought into force over a three year period. This was the first time the provision of services in general through Irish by the state system was placed on a statutory footing.

The aim of the Official Languages Act 2003 is to increase and improve in an organised manner over a period of time the quantity and quality of services provided for the public through Irish by public bodies. The legislation intends to create a space for the language in public affairs in Ireland.

The Office of An Coimisinéir Teanga was established under the Official Languages Act as an independent statutory office operating as an ombudsman's service and as a compliance agency.

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3) When did the Act come into effect?

On 14 July 2003, the President signed the Official Languages Act 2003 into law and the provisions were brought into force over a three year period. The Act came fully into force on 14 July 2006.

The Act imposes duties on public bodies to enable people to communicate with the State in either Irish or English. It also requires public bodies to publish certain core documents simultaneously in both Irish and English i.e. annual reports, financial statements, specific strategy statements and documents containing public policy proposals.

Besides the direct duties under the Act, additional duties may also be imposed on public bodies under language schemes. The schemes provide statutory commitments regarding additional Irish language services which public bodies develop over the three year period of the schemes. Over 80 schemes relating to more than 150 public bodies had been confirmed by the end of 2008.

In October 2008, Regulations under the Act were made regarding the use of Irish on signage, on stationery headings and in recorded oral announcements. From 1 March 2009, new signage erected and new stationery purchased by public bodies must be in Irish or in Irish and English. Recorded oral announcements must be in Irish or in Irish and English from 1 July 2013.

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4) What public bodies come under the Act?

A list of the public bodies which come under the aegis of the Act is provided in the First Schedule to the Act as amended by any appropriate order made by the Minister for Community, Equality and Gaeltacht Affairs.

Included in the list of public bodies are:

- Government departments and offices;
- Local authorities;
- Health Service Executive;
- Universities, other third-level institutions and vocational education committees;
- Agencies, boards and state companies (commercial and non-commercial).

The Minister for Community, Equality and Gaeltacht Affairs may, in conjunction with other appropriate Ministers, amend, by way of regulations, the list of public bodies by the insertion or deletion of a reference to any public body.

Private entities do not, in general, come under the aegis of the Official Languages Act. A full list of the public bodies which currently come under the aegis of the Act is available at www.coimisineir.ie/publicbodies

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5) What is the role of An Coimisinéir Teanga?

An Coimisinéir Teanga is appointed by the President on the advice of the Government following a resolution passed by the Houses of the Oireachtas recommending the appointment (section 20 of the Official Languages Act). An Coimisinéir Teanga is independent in the performance of his duties.

As Ombudsman for the Irish language, An Coimisinéir Teanga enquires into complaints from the public and initiates investigations where it is alleged that public bodies may have failed to fulfil their duties under the Official Languages Act.

An Coimisinéir Teanga monitors the implementation of the Act by public bodies and takes whatever action is required to ensure that those bodies comply with their duties under the Act.

The duties of An Coimisinéir Teanga as specified in sections 20 - 30 of the Official Languages Act are as follows:

- To monitor compliance by public bodies with the provisions of the Act and to take all necessary measures to ensure compliance by public bodies with their duties under the Act.
- To conduct investigations on his own initiative, on request from the Minister for Community, Equality and Gaeltacht Affairs or pursuant to a complaint made to him by any person in cases where public bodies are considered to have failed to fulfil their duties under the Official Languages Act. An Coimisinéir Teanga also has the right to investigate any valid complaint in which it is alleged that the provisions of any other enactments relating to the status or use of Irish have been contravened.
- To prepare a report in writing in respect of each investigation.
- To provide advice to the public regarding their language rights under the Official Languages Act.
- To provide advice to public bodies regarding their language duties under the Act.
- To provide an annual report on the work of the Office of An Coimisinéir Teanga to the Minister for Community, Equality and Gaeltacht Affairs to be laid before the Houses of the Oireachtas. The Office's annual reports are available at www.coimisineir.ie/publications
- To submit annual financial accounts by the Office of An Coimisinéir Teanga to the Comptroller and Auditor General and to provide these accounts to the Minister for Community, Equality and Gaeltacht Affairs to be laid before the Houses of the Oireachtas. The annual accounts of the Office are available at www.coimisineir.ie/publications

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6) What are the powers of An Coimisinéir Teanga?

These are the powers of An Coimisinéir Teanga as specified in sections 22 - 30 of the Official Languages Act:

- An Coimisinéir Teanga has the power to obtain written or oral information from public bodies in order to enable him to fulfil the duties of his office.¹
- An Coimisinéir Teanga may compel a person to attend before him for that purpose and the person must comply with that requirement. The person is entitled to the same immunities and privileges as if he or she were a witness before the High Court.
- A fine not exceeding €2,000 and/or imprisonment for a term of up to 6 months may be imposed on a person convicted in court of refusing or failing to cooperate with An Coimisinéir Teanga or of obstructing his work.
- If a public body refuses or fails to cooperate with An Coimisinéir Teanga or if his work is obstructed and if it is proved that this occurred with the consent, connivance or neglect of an official, the official and the public body could be convicted in court in that particular case.

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¹ This paragraph does not apply to information relating to decisions and proceedings of government or government committees if the Secretary-General to the Government provides a certificate confirming that this applies to the information in question.

7) What are the responsibilities of the Minister for Community, Equality and Gaeltacht Affairs in relation to the Act compared with the responsibilities of An Coimisinéir Teanga?

The Office of An Coimisinéir Teanga is a fully independent office as set out in the Official Languages Act. The Act makes a clear distinction between the responsibilities of An Coimisinéir Teanga and those of the Minister for Community, Equality and Gaeltacht Affairs. Here are examples of that distinction:

Implementation of the Act

The Minister for Community, Equality and Gaeltacht Affairs was responsible for guiding the enactment of the Bill through the Oireachtas and is also responsible to the Oireachtas for the legislation on behalf of the Government. The Minister was responsible for bringing various provisions of the Act into effect over a period of time using Ministerial orders. The Minister is responsible for confirming any Statutory Instruments or Regulations under the Act. The Minister is also responsible for the appropriate provision of staff and resources to the Office of An Coimisinéir Teanga.

An Coimisinéir Teanga monitors the implementation of provisions of the Official Languages Act by public bodies and takes whatever action is required to ensure that those bodies comply with their duties under the Act.

Language Schemes

The Minister requires public bodies to prepare draft language schemes and to provide those schemes to him for confirmation. The Minister issues guidelines to public bodies to assist them in the preparation of draft schemes. The Minister may re-evaluate those guidelines, whenever he considers this to be appropriate.

The Minister confirms each language scheme, after consulting with interested parties and with the consent of the head of the public body concerned. The Minister is responsible for sending a copy of confirmed schemes to An Coimisinéir Teanga.

The Minister requires public bodies, no later than 6 months before a scheme expires, to review their scheme and to prepare and present a new draft scheme to him.

An Coimisinéir Teanga monitors how public bodies fulfil the provisions of each confirmed scheme and takes every necessary action to ensure that public bodies comply with their duties under these statutory schemes.

Advice

An Coimisinéir Teanga has responsibility for providing advice to the public with regard to their language rights under the Act.

An Coimisinéir Teanga also has responsibility for providing advice to public bodies with regard to their language duties under the Act.

Complaints and Investigations

An Coimisinéir Teanga enquires into complaints from the public and initiates investigations where it is alleged that public bodies may have failed to fulfil their duties under the Official Languages Act. He also enquires into complaints regarding allegations that other enactments relating to the status or use of Irish have been contravened.

An Coimisinéir Teanga may begin an investigation on his own initiative, at the request of the Minister or as a result of a complaint from a member of the public.

An Coimisinéir Teanga prepares a written report on every investigation. He sends a copy of the report with findings and recommendations to the Minister, to the public body concerned and to the complainant, as appropriate. Following the report, any party to an investigation or any other person affected by the findings and recommendations of the investigation may appeal to the High Court on a point of law within four weeks.

If An Coimisinéir Teanga is of the opinion that a public body has failed to implement the recommendations of an investigation within a reasonable time, he may submit a report to the Houses of the Oireachtas with regard to that failure.

Compensation Schemes

The Minister may, with the consent of the Minister for Finance, develop a compensation scheme requiring a public body to pay monetary compensation to a person/persons in respect of its failure to comply with a provision of the Official Languages Act following an investigation by An Coimisinéir Teanga.

Placenames

After receiving advice from the Placenames Commission, the Minister confirms Placenames Orders certifying the official Irish version of placenames. If a Placenames Order has been confirmed, a public body must use the Irish version of a placename in the Order in any recorded oral announcement, on any stationery headings or on any signs placed by it at any location.

When the Minister makes a declaration in respect of a placename in the Gaeltacht, only the Irish version may be used henceforth in legislation, on particular maps of Ordnance Survey Ireland and on local authority road and street signs.

An Coimisinéir Teanga monitors the implementation of the legislation relating to placenames.

Reports

The Minister places a report before the Oireachtas each year in relation to the operation of the Official Languages Act in the previous year.

An Coimisinéir Teanga provides an annual report on the operation of the Office of An Coimisinéir Teanga to the Minister for Community, Equality and Gaeltacht Affairs to be laid before the Houses of the Oireachtas.

An Coimisinéir Teanga provides annual financial accounts to the Comptroller and Auditor General and subsequently to the Minister for Community, Equality and Gaeltacht Affairs to be laid before the Houses of the Oireachtas.

An Coimisinéir Teanga may publish a commentary on the practical application and operation of the provisions of the Act, including a commentary based on the experience of holders of the Office of An Coimisinéir Teanga with regard to investigations.

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