Changes to Legislation: as of 3 November 2026, this Act is up to date with all changes known to be in force.

S.I. No. 133 *of* 2007

EUROPEAN COMMUNITIES (ACCESS TO INFORMATION ON THE ENVIRONMENT) REGULATIONS 2007

REVISED

Updated to 1 November 2022

This Revised Statutory Instrument is an administrative consolidation of the *European Communities (Access to Information on the Environment) Regulations 2007*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Bretton Woods Agreements (Amendment) Act 2022* (36/2022), enacted 1 November 2022, and all statutory instruments up to and including *Planning and Development, Maritime and Valuation (Amendment) Act 2022 (Commencement of Certain Provisions) (No. 4) Order 2022* (S.I. No. 550 of 2022), made 2 November 2022, were considered in the preparation of this Revised Statutory Instrument.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

S.I. No. 133 *of* 2007

EUROPEAN COMMUNITIES (ACCESS TO INFORMATION ON THE ENVIRONMENT) REGULATIONS 2007

REVISED

Updated to 1 November 2022

ARRANGEMENT OF REGULATIONS

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SCHEDULE

DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 28 JANUARY 2003 ON PUBLIC ACCESS TO ENVIRONMENTAL INFORMATION AND REPEALING COUNCIL DIRECTIVE 90/313/EEC

S.I. No. 133 *of* 2007

EUROPEAN COMMUNITIES (ACCESS TO INFORMATION ON THE ENVIRONMENT) REGULATIONS 2007

REVISED

Updated to 1 November 2022

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 3*rd April,* 2007.

I, DICK ROCHE, Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003[1], hereby make the following regulations:

Annotations

Modifications (not altering text):

C1 References to "Minister" construed (24.09.2020) as references to the Minister for the Environment, Climate and Communications by *Communications, Climate Action and Environment (Alteration of Name of Department and Title of Minister) Order 2020* (S.I. No. 373 of 2020), art. 4(*b*), in effect as per art. 1(2).

4. In any enactment or any instrument made under an enactment—

(*a*) …

(*b*) references to the Minister for Communications, Climate Action and Environment shall be construed as references to the Minister for the Environment, Climate and Communications.

C2 Functions originally vested in the Minister for the Environment, Heritage and Local Government by or under this instrument transferred (22.07.2016) to the Minister for Communications, Energy and Natural Resources, and references to "Minister" construed as references to the Minister for Communications, Energy and Natural Resources, by *Climate Action and Environment (Transfer of Departmental Administration and Ministerial Functions) Order 2016* (S.I. No. 393 of 2016), arts. 2, 3 and sch. 2, subject to transitional provisions in arts. 4 to 8, in effect as per art. 1(2). Intervening title of Minister dealt with in E-Notes below.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Communications, Energy and Natural Resources.

(2) References to the Department of the Environment, Community and Local Government contained in any Act or any instrument made under an Act and relating to the administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Communications, Energy and Natural Resources.

[1] OJ No. L 41, 14.02.2003, p.26.

3. (1) The functions conferred on the Minister for the Environment, Community and Local Government by or under any of the provisions of—

(*a*) …

(*b*) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Communications, Energy and Natural Resources.

(2) References to the Minister for the Environment, Community and Local Government contained in any Act or instrument made under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Communications, Energy and Natural Resources.

...

Schedule 2

Article 3(1)(b)

Regulations, functions under which are transferred from the Minister for the Environment, Community and Local Government

to the Minister for Communications, Energy and Natural Resources

...

European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007)

...

Editorial Notes:

E1 Previous affecting provision: title of the Minister for Communications, Energy and Natural Resources altered (23.07.2016) to that of the Minister for Communications, Climate Action and Environment by *Communications, Energy and Natural Resources (Alteration of Name of Department and Title of Minister) Order 2016* (S.I. No. 421 of 2016), art. 4(*b*), in effect as per art. 1(2): superseded (24.09.2020) as per C-Note above.

E2 Previous affecting provision: title of the Minister for the Environment, Heritage and Local Government altered (2.05.2011) to that of the Minister for the Environment, Community and Local Government by *Environment, Heritage and Local Government (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 193 of 2011), art. 4(*b*), in effect as per art. 1(2): superseded (23.07.2016) as per E-Note above.

Citation and commencement

1. (1) These Regulations may be cited as the European Communities (Access to Information on the Environment) Regulations 2007.

(2) These Regulations shall come into operation on 1 May 2007.

Transitional provision and revocation

2. (1) A request for information made under the Regulations of 1998 and not determined by the public authority concerned prior to the commencement of these Regulations shall continue to be dealt with and determined by that authority under the Regulations of 1998.

(2) The Regulations of 1998 are revoked.

(3) In this article "Regulations of 1998" means the European Communities Act 1972 (Access to Information on the Environment) Regulations 1998 (S.I. No. 125 of 1998).

Interpretation

3. (1) In these Regulations—

"applicant" means any natural or legal person requesting environmental information pursuant to these Regulations;

"Commissioner" means the holder of the office of Commissioner for Environmental Information established under article 12;

"Directive" means Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003[1], which, for convenience of reference, is set out in the Schedule;

"environmental information" means any information in written, visual, aural, electronic or any other material form on—

(*a*) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms and the interaction among these elements,

(*b*) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment,

(*c*) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in *paragraphs (a)* and *(b)* as well as measures or activities designed to protect those elements,

(*d*) reports on the implementation of environmental legislation,

(*e*) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in *paragraph (c)*, and

(*f*) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are, or may be, affected by the state of the elements of the environment referred to in *paragraph (a)* or, through those elements, by any of the matters referred to in *paragraphs (b)* and *(c)*;

"environmental information held by a public authority" means environmental information in the possession of a public authority that has been produced or received by that authority;

"environmental information held for a public authority" means environmental information that is physically held by a natural or legal person on behalf of that authority;

"Minister" means the Minister for the Environment, Heritage and Local Government;

"public authority" means, subject to *sub-article (2)*—

(*a*) government or other public administration, including public advisory bodies, at national, regional or local level,

(*b*) any natural or legal person performing public administrative functions under national law, including specific duties, activities or services in relation to the environment, and

(*c*) any natural or legal person having public responsibilities or functions, or providing public services, relating to the environment under the control of a body or person falling within *paragraph (a)* or *(b)*,

and includes—

(i) a Minister of the Government,

[1] OJ No. L 41, 14.02.2003, p.26.

(ii) the Commissioners of Public Works in Ireland,

(iii) a local authority for the purposes of the Local Government Act 2001 (No. 37 of 2001),

(iv) a harbour authority within the meaning of the Harbours Act 1946 (No. 9 of 1946),

(v) the Health Service Executive established under the Health Act 2004 (No. 42 of 2004),

(vi) a board or other body (but not including a company under the Companies Acts) established by or under statute,

(vii) a company under the Companies Acts, in which all the shares are held—

(I) by or on behalf of a Minister of the Government,

(II) by directors appointed by a Minister of the Government,

(III) by a board or other body within the meaning of *paragraph (vi)*, or

(IV) by a company to which *subparagraph (I)* or *(II)* applies, having public administrative functions and responsibilities, and possessing environmental information;

"request" means a request for environmental information pursuant to article 6.

F1**[**(2) Notwithstanding anything in *sub-article (1)*, in these Regulations "public authority" does not include—

(*a*) the President,

(*b*) the Office of the Secretary General to the President,

(*c*) the Council of State,

(*d*) any Commission for the time being lawfully exercising the powers and performing the duties of the President, or

(*e*) any body when acting in a judicial or legislative capacity.**]**

(3) A word or expression that is used in these Regulations and is also used in the Directive has the same meaning in these Regulations that it has in the Directive.

Annotations

Amendments:

F1 Substituted (27.07.2018) by *European Communities (Access to Information on the Environment) (Amendment) Regulations 2018* (S.I. No. 309 of 2018), art. 2.

Scope

4. (1) These Regulations apply to environmental information other than, subject to *sub-article (2)*, information that, under any statutory provision apart from these Regulations, is required to be made available to the public, whether for inspection or otherwise.

(2) Notwithstanding—

(*a*) section 38 of the Planning and Development Act 2000 (No. 30 of 2000) and any regulations made thereunder,

(*b*) sections 10 and 31 of the Air Pollution Act 1987 (No. 6 of 1987) and any regulations made thereunder, and

(*c*) sections 6 and 89 of the Environmental Protection Agency Act 1992 (No. 7 of 1992) (as amended by the Protection of the Environment Act 2003 (No. 27 of 2003)) and any regulations made thereunder,

environmental information held by, or on behalf of, a public authority shall be made available in accordance with these Regulations.

General duties of public authority

F2**[5.** (1) A public authority shall—

(*a*) inform the public of their rights under these Regulations and provide information and guidance on the exercise of those rights,

(*b*) make all reasonable efforts to maintain environmental information held by or for it in a manner that is readily reproducible and accessible by information technology or by other electronic means,

(*c*) ensure that environmental information compiled by or for it, is up-to-date, accurate and comparable,

(*d*) maintain registers or lists of the environmental information held by the authority and designate an information officer for such purposes or provide an information point to give clear indications of where such information can be found.

(2) The environmental information specified in *sub-article 5(1)(b)* shall include at least:

(*a*) the texts of international treaties, conventions or agreements and legislation pertaining to them,

(*b*) policies, plans and programmes,

(*c*) progress reports on the implementation of items specified in *sub-articles (a)* and *(b)*, where these have been prepared by the public authority or are held in electronic form by them, and

(*d*) data or summaries of data derived from the monitoring of activities affecting, or likely to affect, the environment,

where such information is directly relevant to the function of that public authority and is environmental information within the meaning of *article 3*.

(3) In the event of an imminent threat to human health or the environment, whether caused by human activities or due to natural causes, a public authority shall ensure that all information held by or for it, which could enable the public likely to be affected to take measures to prevent or mitigate harm, is disseminated immediately and without delay.

(4) Exceptions in *articles 7*, *8* and *9* may apply in relation to the duties imposed by this article.

(5) Public authorities may satisfy the requirements of this article by creating links to internet sites where the information may be found.**]**

Annotations

Amendments:

F2 Substituted (19.12.2011) by *European Communities (Access to Information on the Environment) (Amendment) Regulations 2011* (S.I. No. 662 of 2011), art. 4.

Modifications (not altering text):

C3 Application of article extended (31.12.2018) by *European Communities (Environmental Noise) Regulations 2018* (S.I. No. 549 of 2018), art. 13, in effect as per art. 1(2); as substituted (31.12.2021) by *European Communities (Environmental Noise) (Amendment) Regulations 2021* (S.I. No. 663 of 2021), art. 7.

Access to Information

[13. Noise-mapping bodies and action planning authorities shall, in accordance with relevant Union legislative acts, in particular, Directives 2003/4/EC and 2007/2/EC of the European Parliament and of the Council, and in conformity with the Third and Fourth Schedule to the Principal Directive, the provisions of the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007), as amended, make strategic noise maps and revised strategic noise maps and, action plans and revised action plans available to the public and disseminate them by any appropriate means, including through the use of available information technologies.**]**

C4 Application of article extended (1.06.2015) by *Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015* (S.I. No. 209 of 2015), art. 26, in effect as per art. 5.

Access to information and confidentiality

26. (1) Subject to paragraph (2), any information held by a competent authority by virtue of a requirement of these Regulations shall be treated as being environmental information and subject to the European Communities (Access to Information on the Environment) Regulations 2007 to 2014 (further to the collective citation thereof provided for by Regulation 2 of European Communities (Access to Information on the Environment) (Amendment) Regulations 2014 (S.I. No. 615 of 2014) and in this Regulation subsequently referred to as the "Access to Information on the Environment Regulations") and will be made available to any natural or legal person who requests it in accordance with those Regulations.

(2) Disclosure of any such information required under these Regulations, including the information referred to in Regulation 25, may be refused or restricted by the competent authority where the grounds for refusal laid down in the Access to Information on the Environment Regulations apply.

...

C5 Application of article extended (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), art. 18, in effect on signature.

Inspection and availability of documents including environmental impact statements

18. (1) In accordance with the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007), the Agency shall make the environmental information specified in paragraph (3) available to view and download for inspection from the Agency's website, as soon as practicable after its receipt by the Agency, for at least 4 years following the day on which a decision is made on the application for a licence or the review of a licence.

(2) In the event that a person cannot access the environmental information referred to in paragraph (3) on the Agency's website, the Agency shall upon request provide that information by any other effective means.

(3) For the purposes of paragraph (1) information to be made available includes but is not limited to—

(*a*) an application for a licence,

(*b*) a notice given in writing to the licensee under section 87(1)(*b*) of the Act of 1992,

(*c*) such other notices as are given by the Agency under Part IV of the Act of 1992 or under these Regulations in respect of the application for a licence or the review of a licence or a revised licence,

(*d*) such information, particulars, plans, drawings, maps including site location maps, photographs, evidence, environmental impact statements, notices, objections, submissions, views or observations as are received or obtained by the Agency from the applicant or licensee or any other person in accordance with Part IV of the Act of 1992

or in accordance with these Regulations in respect of the application for a licence or the review of a licence or revised licence, and

(*e*) any written submissions received by the Agency following the giving or publication of a notice under section 87(1) of the Act of 1992.

(4) Upon expiration of the period referred to in paragraph (1) where the Agency removes any environmental information from its website, the Agency shall in accordance with the European Communities (Access to Information on the Environment) Regulations 2007 make available to the public, whether for public inspection during office hours at the headquarters of the Agency or otherwise, environmental information held by it.

C6 Application of article extended by *Environmental Protection Agency Act 1992* (7/1992), s. 99J(8)(c); as inserted (23.04.2013) by *European Union (Industrial Emissions) Regulations 2013* (S.I. No. 138 of 2013), art. 21.

[Environmental inspection plan.

99J. …

(2) The Agency, as soon as may be after the commencement of this Part, shall make a national plan (in this Part called "the environmental inspection plan") with regard to the inspection of installations.

...

(5) The Agency, based on the environmental inspection plan, shall regularly draw up a programme for routine environmental inspections, including the frequency of site visits for different types of installations, provided that:

(*a*) the period between two site visits at an installation shall be based on a systematic appraisal by the Agency, under *subsection (6)*, of the environmental risks of the installation concerned and shall not exceed 1 year for an installation posing the highest risks and 3 years for an installation posing the lowest risks, and

(*b*) if an inspection of an installation has identified a lack of compliance of a significant nature with a licence or a condition attached to a licence under this Part, the Agency shall carry out an additional site visit at that installation within 6 months of that inspection.

…

(7) The Agency shall, as soon as possible, undertake a non-routine environmental inspection to investigate serious environmental complaints, serious environmental accidents or incidents and contraventions of provisions of this Part, or of licences or revised licences or conditions attached to licences or revised licences and, where appropriate, may undertake such an inspection before the Agency makes a decision under *section 83* on an application for a licence, or under *section 90* on the review of a licence or revised licence (including such a review conducted by it of its own volition).

(8) After each site visit undertaken by it, the Agency shall—

(*a*) prepare a report describing its findings regarding—

(i) if the installation concerned complies with the licence or any conditions attached to the licence, and

(ii) further action (if any) necessary to achieve that compliance,

(*b*) furnish a copy of the report referred to in paragraph (a) to the person in charge of the installation within two months of the site visit taking place, and

(*c*) within four months of the site visit taking place, make the report of the visit accessible to the public in accordance with the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007).

...

(10) In this section "environmental inspection" means, in relation to an installation, all actions, including site visits, monitoring of emissions and checks of internal reports and follow-up documents, verification of self-monitoring, checking of the techniques used and adequacy of the environment management undertaken by or on behalf of the Agency to check and promote compliance of

installations with their licences under this Part and any conditions attaching thereto, and where necessary, to monitor the environmental impact of the installations concerned.**]**

C7 Application of article extended (23.04.2013) by *Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013* (S.I. No. 137 of 2013), art. 18.

Interpretation.

2. (1) In these Regulations—

"the Act of 1992" means the Environmental Protection Agency Act 1992 (No. 7 of 1992);

...

"the Agency" means the Environmental Protection Agency established under section 19 of the Act of 1992;

...

"licence" means a licence granted under section 83 of the Act of 1992 to operate all or part of an installation within which one or more industrial emissions directive activities listed in the First Schedule to that Act are carried out;

...

Inspection and availability of documents including environmental impact statements.

18. (1) In accordance with the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007), the Agency shall make the environmental information specified in paragraph (3) available to view and download for inspection from the Agency's website, as soon as practicable after its receipt by the Agency, for at least 4 years following the day on which a decision is made on the application for a licence or the review of a licence.

(2) In the event that a person cannot access the environmental information referred to in paragraph (3) on the Agency's website, the Agency shall upon request provide that information by any other effective means.

(3) For the purposes of paragraph (1) information to be made available includes but is not limited to—

(*a*) an application for a licence,

(*b*) a notice given in writing to the licensee under section 87(1)(b) of the Act of 1992,

(*c*) such other notices as are given by the Agency under Part IV of the Act of 1992 or under these Regulations in respect of the application for a licence or the review of a licence or a revised licence,

(*d*) such information, particulars, plans, drawings, maps including site location maps, photographs, evidence, environmental impact statements, notices, objections, submissions, views or observations as are received or obtained by the Agency from the applicant or licensee or any other person in accordance with Part IV of the Act of 1992 or in accordance with these Regulations in respect of the application for a licence or the review of a licence or revised licence, and

(*e*) any written submissions received by the Agency following the giving or publication of a notice under section 87(1) of the Act of 1992.

(4) Upon expiration of the period referred to in paragraph (1) where the Agency removes any environmental information from its website, the Agency shall in accordance with the European Communities (Access to Information on the Environment) Regulations 2007 make available to the public, whether for public inspection during office hours at the headquarters of the Agency or otherwise, environmental information held by it.

C8 Application of article extended (30.11.2012) by *European Communities (Greenhouse Gas Emissions Trading) Regulations 2012* (S.I. No. 490 of 2012), art. 27, in effect as per. art. 2(1).

Interpretation

3. (1) In these Regulations—

...

"Agency" means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Act 1992 (No. 7 of 1992);

...

"Commission's Monitoring and Reporting Regulation" means Commission Regulation (EU) No 601/2012 of 21 June 2012[12] on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC[1];

...

Access to Information

27. The Agency shall make available to the public information on project activities, decisions relating to the allocation of allowances and the reports of emissions submitted to it by operators in accordance with the Commissions Monitoring and Reporting Regulation and the provisions of the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007).

C9 Application of article extended (13.12.2011) by *Pollutant Release and Transfer Register Regulations 2011* (S.I. No. 649 of 2011), art. 11.

Interpretation

2. (1) In these Regulations—

"Act of 1992" means the Environmental Protection Agency Act 1992 (No. 7 of 1992);

"Agency" means the Environmental Protection Agency established under section 19 of the Act of 1992;

...

"register" means the Irish Pollutant Release and Transfer Register;

...

Access to Information

11. (1) The Agency shall make the register publicly accessible by dissemination free of charge on the Internet in accordance with the timeframe set out in Regulation 9(1) and in accordance with the provisions of the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007).

(2) Where the information contained in the register is not easily accessible to the public by direct electronic means, the Agency shall upon request provide that information by any other effective means, as soon as possible and at the latest within one month after the request has been received.

C10 Application of article extended (11.11.2011) by *European Communities (Geological Storage of Carbon Dioxide) Regulations 2011* (S.I. No. 575 of 2011), art. 7.

Information to the public

7. The Minister, in consultation with the Minister for the Environment, Community and Local Government shall make available to the public, environmental information relating to the geological storage of CO2 in accordance with provisions of the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007).

C11 Application of article extended (31.05.2011) by *European Communities (Marine Strategy Framework) Regulations 2011* (S.I. No. 249 of 2011), art. 17(3).

17. ...

(2) The Minister shall publish and make available to the public for comment, summaries of the following elements of the marine strategy, or any such element which has been updated in accordance with Regulation 16—

(*a*) the initial assessment referred to in Regulation 8 and the determination of good environmental status referred to in Regulation 10,

[12] O.J. No. L 181 12.7.2012 p. 30
[1] O.J. No. L 275 25.10.2003 p. 32

(*b*) the environmental targets established pursuant to Regulation 10,

(*c*) the monitoring programme established pursuant to Regulation 11, and

(*d*) the programme of measures established pursuant to Regulation 12.

(3) With regard to access to environmental information, the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007) shall apply to such access.

...

C12 Application of article extended (4.06.2010) by *European Communities (Greenhouse Gas Emissions Trading) (Aviation) Regulations 2010* (S.I. No. 261 of 2010), art. 24.

Interpretation

2. (1) In these Regulations—

...

"Agency" means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Act 1992 (No. 7 of 1992);

...

Access to information

24. The Agency shall make available to the public, decisions relating to the allocation of allowances and the reports of emissions submitted to it by aircraft operators, in accordance with the Commission's Monitoring and Reporting Guidelines and the provisions of the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007).

Request for environmental information

6. (1) A request for environmental information shall—

(*a*) be made in writing or electronic form,

(*b*) state that the request is made under these Regulations,

(*c*) state the name, address and any other relevant contact details of the applicant,

(*d*) state, in terms that are as specific as possible, the environmental information that is the subject of the request, and

(*e*) if the applicant desires access to environmental information in a particular form or manner, specify the form or manner of access desired.

(2) An applicant shall not be required to state his or her interest in making the request.

Action on request

7. (1) A public authority shall, notwithstanding any other statutory provision and subject only to these Regulations, make available to the applicant any environmental information, the subject of the request, held by, or for, the public authority.

(2) (*a*) A public authority shall make a decision on a request and, where appropriate, make the information available to the applicant as soon as possible and, at the latest, but subject to *paragraph (b)* and *sub-article (10)*, not later than one month from the date on which such request is received by the public authority concerned.

(*b*) Where a public authority is unable, because of the volume or complexity of the environmental information requested, to make a decision within one month from the date on which such request is received, it shall, as soon as possible and at the latest, before the expiry of that month—

(i) give notice in writing to the applicant of the reasons why it is not possible to do so, and

(ii) specify the date, not later than 2 months from the date on which the request was received, by which the response shall be made,

and make a decision on the request and, where appropriate, make the information available to the applicant by the specified date.

(3) (*a*) Where a request has been made to a public authority for access to environmental information in a particular form or manner, access shall be given in that form or manner unless—

(i) the information is already available to the public in another form or manner that is easily accessible, or

(ii) access in another form or manner would be reasonable.

(*b*) Where a public authority decides to make available environmental information other than in the form or manner specified in the request, the reason therefor shall be given by the public authority in writing.

(4) Where a decision is made to refuse, in whole or in part, a request for environmental information, the public authority concerned shall—

(*a*) subject to *paragraph (b)*, notify the applicant of the decision not later than one month following receipt of the request,

(*b*) in a case to which *sub-article (2)(b)* applies, notify the applicant as soon as possible but not later than 2 months following receipt of the request,

(*c*) specify the reasons for the refusal,

(*d*) inform the applicant of his or her rights of internal review and appeal in accordance with these Regulations, including the time within which such rights may be exercised.

(5) Where a request is made to a public authority and the information requested is not held by or for the authority concerned, that authority shall inform the applicant as soon as possible that the information is not held by or for it.

(6) Where *sub-article (5)* applies and the public authority concerned is aware that the information requested is held by another public authority, it shall as soon as possible—

(*a*) transfer the request to the other public authority and inform the applicant accordingly, or

(*b*) inform the applicant of the public authority to whom it believes the request should be directed.

(7) Where a request is made to a public authority which could reasonably be regarded as a request for environmental information but which is not a request that has been made in accordance with—

(*a*) *article 6(1)*, or

(*b*) the Freedom of Information Acts 1997 and 2003,

the public authority concerned shall inform the applicant of his or her right of access to environmental information and the procedure by which that right can be exercised, and shall offer assistance to the applicant in this regard.

(8) Where a request is made by the applicant in too general a manner, the public authority shall, as soon as possible and at the latest within one month of receipt of the request, invite the applicant to make a more specific request and offer assistance to the applicant in the preparation of such a request.

(9) Where, in a request for information on factors affecting or likely to affect the environment, the applicant specifies that he or she requires information on the measurement procedures, including methods of analysis, sampling and pre-treatment of samples, used in compiling that information, the public authority shall, as Article 8(2) of the Directive requires, either make the information available to the applicant or refer the applicant to the standardised procedures.

(10) A public authority shall, in the performance of its functions under this article, have regard to any timescale specified by the applicant.

F3**[**(11) Where a request is made for information which has been provided to the public authority on a voluntary basis by a third party and, in the opinion of the public authority, release of the information may adversely affect the third party, the public authority shall take all reasonable efforts to contact the third party concerned to seek consent or otherwise to release the information, pursuant to *article 8(a)(ii)* and *article 10*.**]**

Annotations

Amendments:

F3 Inserted (19.12.2011) by *European Communities (Access to Information on the Environment) (Amendment) Regulations 2011* (S.I. No. 662 of 2011), art. 5.

Grounds that, subject to *article 10*, mandate a refusal

8. A public authority shall not make available environmental information in accordance with *article 7* where disclosure of the information—

(*a*) would adversely affect—

(i) the confidentiality of personal information relating to a natural person who has not consented to the disclosure of the information, and where that confidentiality is otherwise protected by law,

(ii) the interests of any person who, voluntarily and without being under, or capable of being put under, a legal obligation to do so, supplied the information requested, unless that person has consented to the release of that information,

(iii) the protection of the environment to which that information relates, or

(iv) without prejudice to *paragraph (b)*, the confidentiality of the proceedings of public authorities, where such confidentiality is otherwise protected by law (including the Freedom of Information Acts 1997 and 2003 with respect to exempt records within the meaning of those Acts);

or

(*b*) to the extent that it would involve the disclosure of discussions at one or more meetings of the Government, is prohibited by Article 28 of the Constitution.

Annotations

Modifications (not altering text):

C13 Application of para. (*a*)(i) restricted (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 44(2), (3), S.I. No. 174 of 2018.

Interpretation

2. (1) In this Act— ...

"Data Protection Regulation" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016[3] on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

(2) Subject to *subsection (1)*, a word or expression used in this Act, other than in *Part 5*, that is also used in the Data Protection Regulation has, unless the context otherwise requires, the same meaning in this Act as it has in that Regulation.

...

Data processing and public access to official documents

44. …

(2) For the purposes of Article 86, personal data contained in environmental information may be disclosed where the information is made available under and in accordance with the Access to Information on the Environment Regulations pursuant to a request within the meaning of those Regulations.

(3) In this section—

"Access to Information on the Environment Regulations" means the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007);

...

"environmental information" has the same meaning as it has in the Access to Information on the Environment Regulations;

...

Discretionary grounds for refusal of information

9. (1) A public authority may refuse to make available environmental information where disclosure of the information requested would adversely affect—

(*a*) international relations, national defence or public security,

(*b*) the course of justice (including criminal inquiries and disciplinary inquiries),

(*c*) commercial or industrial confidentiality, where such confidentiality is provided for in national or Community law to protect a legitimate economic interest, or(d) intellectual property rights.

(2) A public authority may refuse to make environmental information available where the request—

(*a*) is manifestly unreasonable having regard to the volume or range of information sought,

(*b*) remains formulated in too general a manner, taking into account *article 7(8)*,

(*c*) concerns material in the course of completion, or unfinished documents or data, or

(*d*) concerns internal communications of public authorities, taking into account the public interest served by the disclosure.

Incidental provisions relating to refusal of information

10. (1) Notwithstanding *articles 8* and *9(1)(c)*, a request for environmental information shall not be refused where the request relates to information on emissions into the environment.

(2) The reference in *sub-article (1)* to information on emissions into the environment does not include a reference to any discussions on the matter of such emissions at any meeting of the Government.

[3] OJ No. L 119, 4.5.2016, p.1

(3) The public authority shall consider each request on an individual basis and weigh the public interest served by disclosure against the interest served by refusal.

(4) The grounds for refusal of a request for environmental information shall be interpreted on a restrictive basis having regard to the public interest served by disclosure.

(5) Nothing in *article 8* or *9* shall authorise a public authority not to make available environmental information which, although held with information to which *article 8* or *9* relates, may be separated from such information.

(6) Where a request is refused pursuant to *article 9(2)(c)* because it concerns material in the course of completion, the public authority shall inform the applicant of the name of the authority preparing the material and the estimated time needed for completion.

(7) Where a decision is not notified to the applicant within the relevant period specified in *article 7*, a decision refusing the request shall be deemed to have been made by the public authority concerned on the date of expiry of such period.

Internal review of refusal

11. (1) Where the applicant's request has been refused under *article 7*, in whole or in part, the applicant may, not later than one month following receipt of the decision of the public authority concerned, request the public authority to review the decision, in whole or in part.

(2) Following receipt of a request for a review under *sub-article (1)*, the public authority concerned shall designate a person unconnected with the original decision whose rank is the same as, or higher than, that of the original decision-maker to review the decision and that person shall—

(*a*) affirm, vary or annul the decision, and

(*b*) where appropriate, require the public authority to make available environmental information to the applicant,

in accordance with these Regulations.

(3) A decision under *sub-article (2)* shall be notified to the applicant within one month from receipt of the request for the internal review.

(4) Where the decision under *sub-article (2)* affirms a decision under *article 7*, or varies it in a way that results in the request being refused in whole or in part, the public authority concerned shall—

(*a*) specify the reasons for the decision under *sub-article (2)*, and

(*b*) inform the applicant of his or her right of appeal in accordance with these Regulations, including the time within which such right may be exercised.

(5) In *sub-article (1)* and *article 12(3)(a)*, the reference to a request refused in whole or in part includes a request that—

(*a*) has been refused on the ground that the body or person concerned contends that the body or person is not a public authority within the meaning of these Regulations,

(*b*) has been inadequately answered, or

(*c*) has otherwise not been dealt with in accordance with Article 3, 4 or 5 of the Directive (including the ground that the amount of the fee charged under *article 15(1)* is excessive).

Appeal to Commissioner for Environmental Information

12. (1) There is established the office of Commissioner for Environmental Information and the holder of the office shall be known as the Commissioner for Environmental Information and shall be independent in the performance of his or her functions.

(2) The holder of the office of Commissioner for Environmental Information shall be the person who, for the time being, holds the office of Information Commissioner under the Freedom of Information Acts 1997 and 2003.

F4**[**(3) Where—

(*a*) a decision of a public authority has been affirmed, in whole or in part, under *article 11*, or

(*b*) a person other than the applicant, including a third party, would be incriminated by the disclosure of the environmental information concerned,

the applicant, the person other than the applicant or the third party may appeal to the Commissioner against the decision of the public authority concerned.**]**

(4) (*a*) An appeal under this article shall be initiated—

(i) not later than one month after receipt of the decision under *article 11(3)*, or

(ii) where no decision is notified by a public authority, not later than one month from the time when a decision was required to be notified under *article 11(3)*.

(*b*) Where the Commissioner is satisfied, in the circumstances of a particular case, that it is reasonable to do so, he or she may extend the time for initiating an appeal under this sub-article.

(5) Following receipt of an appeal under this article, the Commissioner shall—

(*a*) review the decision of the public authority,

(*b*) affirm, vary or annul the decision concerned, specifying the reasons for his or her decision, and

(*c*) where appropriate, require the public authority to make available environmental information to the applicant,in accordance with these Regulations.

(6) The Commissioner may, for the purposes of this article, do any of the following:

(*a*) require a public authority to make available environmental information to the Commissioner and, where appropriate—

(i) require the public authority concerned to attend before the Commissioner for that purpose, and

(ii) where the public authority is a body corporate, require its chief officer to attend,

(*b*) examine and take copies of any environmental information held by a public authority and retain it in his or her possession for a reasonable period,

(*c*) enter any premises occupied by a public authority and there require to be furnished with such environmental information as he or she may reasonably require, or take such copies of, or extracts from, any environmental information found or made available on the premises.

(7) A public authority shall comply with a decision of the Commissioner under *sub-article (5)* within 3 weeks after its receipt.

(8) Where a public authority fails to comply with a decision of the Commissioner within the period specified in *sub-article (7)*, the Commissioner may apply to the High Court for an order directing the public authority to comply with that decision and, on the hearing of such an application, the High Court may grant such relief accordingly.

(9) (*a*) The Commissioner may refer any question of law arising in an appeal under this article to the High Court for determination and shall postpone the making of a decision until after the determination of the court proceedings.

(*b*) The High Court or, on appeal from that Court, the Supreme Court, may order that some or all of the costs of an applicant or other person affected in relation to a reference under this sub-article be paid by the public authority concerned.

(10) The Commissioner shall be assisted by the staff of the office of the Information Commissioner and by such other resources as may, from time to time, be available to that office.

Annotations

Amendments:

F4 Substituted (19.12.2011) by *European Communities (Access to Information on the Environment) (Amendment) Regulations 2011* (S.I. No. 662 of 2011), art. 6.

Modifications (not altering text):

C14 Applications of paras. (8) and (9) affected (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), ss. 3, 5, 6 and 7, S.I. No. 433 of 2011.

Costs of proceedings to be borne by each party in certain circumstances.

3.—(1) Notwithstanding anything contained in any other enactment or in—

(*a*) Order 99 of the Rules of the Superior Courts (S.I. No. 15 of 1986),

…

and subject to *subsections (2)*, *(3)* and *(4)*, in proceedings to which this section applies, each party (including any notice party) shall bear its own costs.

(2) The costs of the proceedings, or a portion of such costs, as are appropriate, may be awarded to the applicant, or as the case may be, the plaintiff, to the extent that he or she succeeds in obtaining relief and any of those costs shall be borne by the respondent, or as the case may be, defendant or any notice party, to the extent that the acts or omissions of the respondent, or as the case may be, defendant or any notice party, contributed to the applicant, or as the case may be, plaintiff obtaining relief.

(3) A court may award costs against a party in proceedings to which this section applies if the court considers it appropriate to do so—

(*a*) where the court considers that a claim or counter-claim by the party is frivolous or vexatious,

(*b*) by reason of the manner in which the party has conducted the proceedings, or

(*c*) where the party is in contempt of the court.

(4) *Subsection (1)* does not affect the court's entitlement to award costs in favour of a party in a matter of exceptional public importance and where in the special circumstances of the case it is in the interests of justice to do so.

…

Proceedings relating to Information Regulations.

5.—(1) *Section 3* applies to civil proceedings, other than proceedings referred to in *subsection (2)*, instituted by a person relating to a request referred to in Regulation 6 of the Information Regulations.

(2) *Section 3* shall not apply to proceedings instituted by the Commissioner for Environmental Information or a public authority pursuant to the Information Regulations.

(3) In this section—

"Information Regulations" means the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007);

"public authority" has the meaning assigned to it by the Information Regulations.

Additional proceedings to which *section 3* applies.

6.—*Section 3* applies to—

(*a*) proceedings in the High Court by way of judicial review or of seeking leave to apply for judicial review, of proceedings referred to in *section 4* or *5*,

(*b*) an appeal (including an appeal by way of case stated) from the District Court, Circuit Court or High Court in any proceedings referred to in *section 4* or *5* or *paragraph (a)*, and

(*c*) proceedings for interim or interlocutory relief in relation to any proceedings referred to in *section 4* or *5* or *paragraph (a)*.

Application to court for determination that *section 3* applies to proceedings.

7.—(1) A party to proceedings to which *section 3* applies may at any time before, or during the course of, the proceedings apply to the court for a determination that *section 3* applies to those proceedings.

(2) Where an application is made under *subsection (1)*, the court may make a determination that *section 3* applies to those proceedings.

(3) Without prejudice to *subsection (1)*, the parties to proceedings referred to in *subsection (1)*, may, at any time, agree that *section 3* applies to those proceedings.

(4) Before proceedings referred to in *section 3* are instituted, the persons who would be the parties to those proceedings if those proceedings were instituted, may, before the institution of those proceedings and without prejudice to *subsection (1)*, agree that *section 3* applies to those proceedings.

(5) An application under *subsection (1)* shall be by motion on notice to the parties concerned.

Editorial Notes:

E3 Provision made (14.10.2014) by *Freedom of Information Act 2014* (30/2014), s. 6(2)(a) and sch. 1 part 1 para. (*d*), commenced on enactment, that for FOI purposes the Office of the Commissioner for Environmental Information shall not be a public body when performing its functions under this instrument (S.I. No. 133 of 2007), other than insofar as relates to records concerning the general administration of those functions.

Appeal to High Court on point of law

13. (1) A party to an appeal under *article 12* or any other person affected by the decision of the Commissioner may appeal to the High Court on a point of law from the decision.

(2) An appeal under *sub-article (1)* shall be initiated not later than 2 months after notice of the decision under *article 12(5)* was given to the party to the appeal or other person affected.

(3) Where an appeal under this article by an applicant or other person affected is dismissed by the High Court or, on appeal from that Court, the Supreme Court, the Court may order that some or all of the costs in relation to the appeal of any person affected be paid by the public authority concerned, if it considers that the point of law concerned was of exceptional public importance, and but for this sub-article, would not so order.

(4) In an appeal under this article to the High Court or, on appeal from that Court, the Supreme Court, the Court shall, where appropriate, specify the period within which effect shall be given to its order.

Annotations

Modifications (not altering text):

C15 Applications of para. (3) affected (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), ss. 3, 5, S.I. No. 433 of 2011.

Costs of proceedings to be borne by each party in certain circumstances.

3.—(1) Notwithstanding anything contained in any other enactment or in—

(*a*) Order 99 of the Rules of the Superior Courts (S.I. No. 15 of 1986),

…

and subject to *subsections (2)*, *(3)* and *(4)*, in proceedings to which this section applies, each party (including any notice party) shall bear its own costs.

(2) The costs of the proceedings, or a portion of such costs, as are appropriate, may be awarded to the applicant, or as the case may be, the plaintiff, to the extent that he or she succeeds in obtaining relief and any of those costs shall be borne by the respondent, or as the case may be, defendant or any notice party, to the extent that the acts or omissions of the respondent, or as the case may be, defendant or any notice party, contributed to the applicant, or as the case may be, plaintiff obtaining relief.

(3) A court may award costs against a party in proceedings to which this section applies if the court considers it appropriate to do so—

(*a*) where the court considers that a claim or counter-claim by the party is frivolous or vexatious,

(*b*) by reason of the manner in which the party has conducted the proceedings, or

(*c*) where the party is in contempt of the court.

(4) *Subsection (1)* does not affect the court's entitlement to award costs in favour of a party in a matter of exceptional public importance and where in the special circumstances of the case it is in the interests of justice to do so.

…

Proceedings relating to Information Regulations.

5.—(1) *Section 3* applies to civil proceedings, other than proceedings referred to in *subsection (2)*, instituted by a person relating to a request referred to in Regulation 6 of the Information Regulations.

(2) *Section 3* shall not apply to proceedings instituted by the Commissioner for Environmental Information or a public authority pursuant to the Information Regulations.

(3) In this section—

"Information Regulations" means the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007);

"public authority" has the meaning assigned to it by the Information Regulations.

Guidelines

14. (1) The Minister may publish guidelines in relation to the implementation of these Regulations by public authorities.

(2) A public authority shall, in the performance of its functions under these Regulations, have regard to any guidelines published by the Minister under *sub-article (1)*.

F5**[**(3) In addition to the guidelines referred to in *sub-article (1)*, the Minister shall ensure that an indicative list of public authorities is publicly available in electronic format.**]**

Annotations

Amendments:

F5 Inserted (19.12.2011) by *European Communities (Access to Information on the Environment) (Amendment) Regulations 2011* (S.I. No. 662 of 2011), art. 7.

Fees

F6**[15.** (1) (*a*) A public authority may charge a fee when it makes available environmental information in accordance with these Regulations (including when it makes such information available following an appeal to the Commissioner under *article 12*), provided that such fee shall be reasonable having regard to the Directive.

(*b*) Notwithstanding *sub-article (a)*, a public authority shall not charge a fee for access to any public registers or lists of environmental information pursuant to *article 5(1)(d)*.

(*c*) Notwithstanding *sub-article (a)*, a public authority shall not charge a fee for the examination in situ of information requested.

(*d*) Where an applicant examines information in situ and wishes to obtain copies of that information, a public authority may charge a fee, consistent with the list of fees specified under *article 15(2)*, for the provision of such copies.

(2) Where a public authority charges a fee pursuant to *sub-article (1)*, it shall make available to the public a list of fees charged, information on how such fees are calculated and the circumstances under which they may be waived.

(3) F7**[**Subject to *sub-article (4)*, a fee of €50 shall be charged for making an appeal to the Commissioner under *article 12*.**]**

(4) F7**[**In respect of an appeal pursuant to *article 12* by—

(*a*) a holder of a medical card,

(*b*) a dependant of a holder of a medical card, or

(*c*) a person referred to in *article 12(3)(b)*,

the fee charged shall be €15.**]**

(5) The Commissioner may deem an appeal to be withdrawn if the public authority makes the requested information available, in whole or in part, prior to a formal decision of the Commissioner under *article 12(5)*. In such circumstances, the Commissioner may waive or refund all or part of the appeal fee.

(6) In respect of an appeal pursuant to *article 12* on a decision pursuant to *article 10(7)*, the Commissioner may waive all or part of the appeal fee.

(7) Where an appeal pursuant to *article 12* is withdrawn by an appellant, the Commissioner may waive all or part of the appeal fee.**]**

Annotations

Amendments:

F6 Substituted (19.12.2011) by *European Communities (Access to Information on the Environment) (Amendment) Regulations 2011* (S.I. No. 662 of 2011), art. 8.

F7 Substituted (19.12.2014) by *European Communities (Access to Information on the Environment) (Amendment) Regulations 2014* (S.I. No. 615 of 2014), art. 4(*a*), (*b*).

SCHEDULE

DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 28 JANUARY 2003 ON PUBLIC ACCESS TO ENVIRONMENTAL INFORMATION AND REPEALING COUNCIL DIRECTIVE 90/313/EEC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission[1],

Having regard to the opinion of the European Economic and Social Committee[2],

Having regard to the opinion of the Committee of the Regions[3],

Acting in accordance with the procedure laid down in Article 251 of the Treaty[4] in the light of the joint text approved by the Conciliation Committee on 8 November 2002,

Whereas:

(1) Increased public access to environmental information and the dissemination of such information contribute to a greater awareness of environmental matters, a free exchange of views, more effective participation by the public in environmental decision-making and, eventually, to a better environment.

(2) Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment[5] initiated a process of change in the manner in which public authorities approach the issue of openness and transparency, establishing measures for the exercise of the right of public access to environmental information which should be developed and continued. This Directive expands the existing access granted under Directive 90/313/EEC.

(3) Article 8 of that Directive requires Member States to report to the Commission on the experience gained, in the light of which the Commission is required to make a report to the European Parliament and to the Council together with any proposal for revision of the Directive which it may consider appropriate.

(4) The report produced under Article 8 of that Directive identifies concrete problems encountered in the practical application of the Directive.

(5) On 25 June 1998 the European Community signed the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ("the Aarhus Convention"). Provisions of Community law must be consistent with that Convention with a view to its conclusion by the European Community.

(6) It is appropriate in the interest of increased transparency to replace Directive 90/313/EEC rather than to amend it, so as to provide interested parties with a single, clear and coherent legislative text.

(7) Disparities between the laws in force in the Member States concerning access to environmental information held by public authorities can create inequality within

1 OJ C 337 E, 28.11.2000, p.156 AND OJ C 240 E, 28.8.2001, p.289.
2 OJ C 116, 20.4.2001, p. 43.
3 OJ C 148, 18.5.2001, p. 9.
4 Opinion of the European Parliament of 14 March 2001 (OJ C 343, 5.12.2001, p. 165), Council Common Position of 28 January 2002 (OJ C 113 E, 14.5.2002, p. 1) and Decision of the European Parliament of 30 May 2002 (not yet published in the Official Journal). Decision of the Council of 16 December 2002 and decision the European Parliament of 18 December 2002.
5 OJ L 158, 23.6.1990, p. 56.

the Community as regards access to such information or as regards conditions of competition.

(8) It is necessary to ensure that any natural and legal person has a right of access to environmental information held by or for public authorities without his having to state an interest.

(9) It is also necessary that public authorities make available and disseminate environmental information to the general public to the widest extent possible, in particular by using information and communication technologies. The future development of these technologies should be taken into account in the reporting on, and reviewing of, this Directive.

(10) The definition of environmental information should be clarified so as to encompass information in any form on the state of the environment, on factors, measures or activities affecting or likely to affect the environment or designed to protect it, on cost-benefit and economic analyses used within the framework of such measures or activities and also information on the state of human health and safety, including the contamination of the food chain, conditions of human life, cultural sites and built structures in as much as they are, or may be, affected by any of those matters.

(11) To take account of the principle in Article 6 of the Treaty, that environmental protection requirements should be integrated into the definition and implementation of Community policies and activities, the definition of public authorities should be expanded so as to encompass government or other public administration at national, regional or local level whether or not they have specific responsibilities for the environment. The definition should likewise be expanded to include other persons or bodies performing public administrative functions in relation to the environment under national law, as well as other persons or bodies acting under their control and having public responsibilities or functions in relation to the environment.

(12) Environmental information which is physically held by other bodies on behalf of public authorities should also fall within the scope of this Directive.

(13) Environmental information should be made available to applicants as soon as possible and within a reasonable time and having regard to any timescale specified by the applicant.

(14) Public authorities should make environmental information available in the form or format requested by an applicant unless it is already publicly available in another form or format or it is reasonable to make it available in another form or format. In addition, public authorities should be required to make all reasonable efforts to maintain the environmental information held by or for them in forms or formats that are readily reproducible and accessible by electronic means.

(15) Member States should determine the practical arrangements under which such information is effectively made available. These arrangements shall guarantee that the information is effectively and easily accessible and progressively becomes available to the public through public telecommunications networks, including publicly accessible lists of public authorities and registers or lists of environmental information held by or for public authorities.

(16) The right to information means that the disclosure of information should be the general rule and that public authorities should be permitted to refuse a request for environmental information in specific and clearly defined cases. Grounds for refusal should be interpreted in a restrictive way, whereby the public interest served by disclosure should be weighed against the interest served by the refusal. The reasons for a refusal should be provided to the applicant within the time limit laid down in this Directive.

(17) Public authorities should make environmental information available in part where it is possible to separate out any information falling within the scope of the exceptions from the rest of the information requested.

(18) Public authorities should be able to make a charge for supplying environmental information but such a charge should be reasonable. This implies that, as a general rule, charges may not exceed actual costs of producing the material in question. Instances where advance payment will be required should be limited. In particular cases, where public authorities make available environmental information on a commercial basis, and where this is necessary in order to guarantee the continuation of collecting and publishing such information, a market-based charge is considered to be reasonable; an advance payment may be required. A schedule of charges should be published and made available to applicants together with information on the circumstances in which a charge may be levied or waived.

(19) Applicants should be able to seek an administrative or judicial review of the acts or omissions of a public authority in relation to a request.

(20) Public authorities should seek to guarantee that when environmental information is compiled by them or on their behalf, the information is comprehensible, accurate and comparable. As this is an important factor in assessing the quality of the information supplied the method used in compiling the information should also be disclosed upon request.

(21) In order to increase public awareness in environmental matters and to improve environmental protection, public authorities should, as appropriate, make available and disseminate information on the environment which is relevant to their functions, in particular by means of computer telecommunication and/or electronic technology, where available.

(22) This Directive should be evaluated every four years, after its entry into force, in the light of experience and after submission of the relevant reports by the Member States, and be subject to revision on that basis. The Commission should submit an evaluation report to the European Parliament and the Council.

(23) Since the objectives of the proposed Directive cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(24) The provisions of this Directive shall not affect the right of a Member State to maintain or introduce measures providing for broader access to information than required by this Directive,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Objectives

The objectives of this Directive are:

(*a*) to guarantee the right of access to environmental information held by or for public authorities and to set out the basic terms and conditions of, and practical arrangements for, its exercise; and

(*b*) to ensure that, as a matter of course, environmental information is progressively made available and disseminated to the public in order to achieve the widest possible systematic availability and dissemination to the public of environmental information. To this end the use, in particular, of

computer telecommunication and/or electronic technology, where available, shall be promoted.

Article 2

Definitions

For the purposes of this Directive:

1. "Environmental information" shall mean any information in written, visual, aural, electronic or any other material form on:

(*a*) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(*b*) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (*a*);

(*c*) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (*a*) and (*b*) as well as measures or activities designed to protect those elements;

(*d*) reports on the implementation of environmental legislation;

(*e*) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (*c*); and

(*f*) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (*a*) or, through those elements, by any of the matters referred to in (*b*) and (*c*).

2. "Public authority" shall mean:

(*a*) government or other public administration, including public advisory bodies, at national, regional or local level;

(*b*) any natural or legal person performing public administrative functions under national law, including specific duties, activities or services in relation to the environment; and

(*c*) any natural or legal person having public responsibilities or functions, or providing public services, relating to the environment under the control of a body or person falling within (*a*) or (*b*).

Member States may provide that this definition shall not include bodies or institutions when acting in a judicial or legislative capacity. If their constitutional provisions at the date of adoption of this Directive make no provision for a review procedure within the meaning of Article 6, Member States may exclude those bodies or institutions from that definition.

3. "Information held by a public authority" shall mean environmental information in its possession which has been produced or received by that authority.

4. "Information held for a public authority" shall mean environmental information which is physically held by a natural or legal person on behalf of a public authority.

5. "Applicant" shall mean any natural or legal person requesting environmental information.

6. "Public" shall mean one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organisations or groups.

Article 3

Access to environmental information upon request

1. Member States shall ensure that public authorities are required, in accordance with the provisions of this Directive, to make available environmental information held by or for them to any applicant at his request and without his having to state an interest.

2. Subject to Article 4 and having regard to any timescale specified by the applicant, environmental information shall be made available to an applicant:

(*a*) as soon as possible or, at the latest, within one month after the receipt by the public authority referred to in paragraph 1 of the applicant's request; or

(*b*) within two months after the receipt of the request by the public authority if the volume and the complexity of the information is such that the one-month period referred to in (*a*) cannot be complied with. In such cases, the applicant shall be informed as soon as possible, and in any case before the end of that one-month period, of any such extension and of the reasons for it.

3. If a request is formulated in too general a manner, the public authority shall as soon as possible, and at the latest within the timeframe laid down in paragraph 2(*a*), ask the applicant to specify the request and shall assist the applicant in doing so, e.g. by providing information on the use of the public registers referred to in paragraph 5(*c*). The public authorities may, where they deem it appropriate, refuse the request under Article 4(1)(*c*).

4. Where an applicant requests a public authority to make environmental information available in a specific form or format (including in the form of copies), the public authority shall make it so available unless:

(*a*) it is already publicly available in another form or format, in particular under Article 7, which is easily accessible by applicants; or

(*b*) it is reasonable for the public authority to make it available in another form or format, in which case reasons shall be given for making it available in that form or format.

For the purposes of this paragraph, public authorities shall make all reasonable efforts to maintain environmental information held by or for them in forms or formats that are readily reproducible and accessible by computer telecommunications or by other electronic means.

The reasons for a refusal to make information available, in full or in part, in the form or format requested shall be provided to the applicant within the time limit referred to in paragraph 2(*a*).

5. For the purposes of this Article, Member States shall ensure that:

(*a*) officials are required to support the public in seeking access to information;

(*b*) lists of public authorities are publicly accessible; and

(*c*) the practical arrangements are defined for ensuring that the right of access to environmental information can be effectively exercised, such as:

— the designation of information officers;

— the establishment and maintenance of facilities for the examination of the information required,

— registers or lists of the environmental information held by public authorities or information points, with clear indications of where such information can be found.

Member States shall ensure that public authorities inform the public adequately of the rights they enjoy as a result of this Directive and to an appropriate extent provide information, guidance and advice to this end.

Article 4

Exceptions

1. Member States may provide for a request for environmental information to be refused if:

(*a*) the information requested is not held by or for the public authority to which the request is addressed. In such a case, where that public authority is aware that the information is held by or for another public authority, it shall, as soon as possible, transfer the request to that other authority and inform the applicant accordingly or inform the applicant of the public authority to which it believes it is possible to apply for the information requested;

(*b*) the request is manifestly unreasonable;

(*c*) the request is formulated in too general a manner, taking into account Article 3(3);

(*d*) the request concerns material in the course of completion or unfinished documents or data;

(*e*) the request concerns internal communications, taking into account the public interest served by disclosure.

Where a request is refused on the basis that it concerns material in the course of completion, the public authority shall state the name of the authority preparing the material and the estimated time needed for completion.

2. Member States may provide for a request for environmental information to be refused if disclosure of the information would adversely affect:

(*a*) the confidentiality of the proceedings of public authorities, where such confidentiality is provided for by law;

(*b*) international relations, public security or national defence;

(*c*) the course of justice, the ability of any person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;

(*d*) the confidentiality of commercial or industrial information where such confidentiality is provided for by national or Community law to protect a legitimate economic interest, including the public interest in maintaining statistical confidentiality and tax secrecy;

(*e*) intellectual property rights;

(*f*) the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to

the public, where such confidentiality is provided for by national or Community law;

(*g*) the interests or protection of any person who supplied the information requested on a voluntary basis without being under, or capable of being put under, a legal obligation to do so, unless that person has consented to the release of the information concerned;

(*h*) the protection of the environment to which such information relates, such as the location of rare species.

The grounds for refusal mentioned in paragraphs 1 and 2 shall be interpreted in a restrictive way, taking into account for the particular case the public interest served by disclosure. In every particular case, the public interest served by disclosure shall be weighed against the interest served by the refusal. Member States may not, by virtue of paragraph 2(*a*), (*d*), (*f*), (*g*) and (*h*), provide for a request to be refused where the request relates to information on emissions into the environment.

Within this framework, and for the purposes of the application of subparagraph (*f*), Member States shall ensure that the requirements of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data are complied with[6].

3. Where a Member State provides for exceptions, it may draw up a publicly accessible list of criteria on the basis of which the authority concerned may decide how to handle requests.

4. Environmental information held by or for public authorities which has been requested by an applicant shall be made available in part where it is possible to separate out any information falling within the scope of paragraphs 1(*d*) and (*e*) or 2 from the rest of the information requested.

5. A refusal to make available all or part of the information requested shall be notified to the applicant in writing or electronically, if the request was in writing or if the applicant so requests, within the time limits referred to in Article 3(2)(*a*) or, as the case may be, (*b*). The notification shall state the reasons for the refusal and include information on the review procedure provided for in accordance with Article 6.

Article 5

Charges

1. Access to any public registers or lists established and maintained as mentioned in Article 3(5) and examination *in situ* of the information requested shall be free of charge.

2. Public authorities may make a charge for supplying any environmental information but such charge shall not exceed a reasonable amount.

3. Where charges are made, public authorities shall publish and make available to applicants a schedule of such charges as well as information on the circumstances in which a charge may be levied or waived.

Article 6

Access to justice

1. Member States shall ensure that any applicant who considers that his request for information has been ignored, wrongfully refused (whether in full or in part), inadequately answered or otherwise not dealt with in accordance with the provisions of Articles 3, 4 or 5, has access to a procedure in which the acts or omissions of the

6 OJ L 281, 23.11.1995, p. 31.

public authority concerned can be reconsidered by that or another public authority or reviewed administratively by an independent and impartial body established by law. Any such procedure shall be expeditious and either free of charge or inexpensive.

2. In addition to the review procedure referred to in paragraph 1, Member States shall ensure that an applicant has access to a review procedure before a court of law or another independent and impartial body established by law, in which the acts or omissions of the public authority concerned can be reviewed and whose decisions may become final. Member States may furthermore provide that third parties incriminated by the disclosure of information may also have access to legal recourse.

3. Final decisions under paragraph 2 shall be binding on the public authority holding the information. Reasons shall be stated in writing, at least where access to information is refused under this Article.

Article 7

Dissemination of environmental information

1. Member States shall take the necessary measures to ensure that public authorities organise the environmental information which is relevant to their functions and which is held by or for them, with a view to its active and systematic dissemination to the public, in particular by means of computer telecommunication and/or electronic technology, where available.

The information made available by means of computer telecommunication and/or electronic technology need not include information collected before the entry into force of this Directive unless it is already available in electronic form.

Member States shall ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunication networks.

2. The information to be made available and disseminated shall be updated as appropriate and shall include at least:

(*a*) texts of international treaties, conventions or agreements, and of Community, national, regional or local legislation, on the environment or relating to it;

(*b*) policies, plans and programmes relating to the environment;

(*c*) progress reports on the implementation of the items referred to in (*a*) and (*b*) when prepared or held in electronic form by public authorities;

(*d*) the reports on the state of the environment referred to in paragraph 3;

(*e*) data or summaries of data derived from the monitoring of activities affecting, or likely to affect, the environment;

(*f*) authorisations with a significant impact on the environment and environmental agreements or a reference to the place where such information can be requested or found in the framework of Article 3;

(*g*) environmental impact studies and risk assessments concerning the environmental elements referred to in Article 2(1)(*a*) or a reference to the place where the information can be requested or found in the framework of Article 3.

3. Without prejudice to any specific reporting obligations laid down by Community legislation, Member States shall take the necessary measures to ensure that national, and, where appropriate, regional or local reports on the state of the environment are published at regular intervals not exceeding four years; such reports shall include information on the quality of, and pressures on, the environment.

4. Without prejudice to any specific obligation laid down by Community legislation, Member States shall take the necessary measures to ensure that, in the event of an imminent threat to human health or the environment, whether caused by human activities or due to natural causes, all information held by or for public authorities which could enable the public likely to be affected to take measures to prevent or mitigate harm arising from the threat is disseminated, immediately and without delay.

5. The exceptions in Article 4(1) and (2) may apply in relation to the duties imposed by this Article.

6. Member States may satisfy the requirements of this Article by creating links to Internet sites where the information can be found.

Article 8

Quality of environmental information

1. Member States shall, so far as is within their power, ensure that any information that is compiled by them or on their behalf is up to date, accurate and comparable.

2. Upon request, public authorities shall reply to requests for information pursuant to Article 2(1)b, reporting to the applicant on the place where information, if available, can be found on the measurement procedures, including methods of analysis, sampling, and pre-treatment of samples, used in compiling the information, or referring to a standardised procedure used.

Article 9

Review procedure

1. Not later than 14 February 2009, Member States shall report on the experience gained in the application of this Directive.

They shall communicate the report to the Commission not later than 14 August 2009.

No later than 14 February 2004, the Commission shall forward to the Member States a guidance document setting out clearly the manner in which it wishes the Member States to report.

2. In the light of experience and taking into account developments in computer telecommunication and/or electronic technology, the Commission shall make a report to the European Parliament and to the Council together with any proposal for revision, which it may consider appropriate.

Article 10

Implementation

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 14 February 2005. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

Article 11

Repeal

Directive 90/313/EEC is hereby repealed with effect from 14 February 2005.

References to the repealed Directive shall be construed as referring to this Directive and shall be read in accordance with the correlation table in the Annex.

Article 12

Entry into force

This Directive shall enter into force on the day of its publication in the Official Journal of the European Union.

Article 13

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 28 January 2003.

For the European Parliament	*For the Council*
The President	*The President*
P. Cox	**G. Papandreou**

ANNEX

CORRELATION TABLE

Directive 90/313/EEC	This Directive
Article 1	Article 1(a)
	Article 1(b)
Article 2(a)	Article 2(1)
Article 2(b)	Article 2(2)
-	Article 2 (3)
-	Article 2(4)
-	Article 2(5)
-	Article 2(6)
Article 3(1)	Article 3(1) and Article 3(5)
Article 3(2)	Article 4(2) and Article 4(4)
Article 3(3)	Article 4(1)(b), (c), (d) and (e)
Article 3(4)	Article 3(2) and Article 4(5)
-	Article 4(1)(a)
-	Article 3(3)
-	Article 3(4)
Article 4	Article 6(1) and Article 6(2)
-	Article 6(3)
Article 5	Article 5(1)
-	Article 5(2)
-	Article 5(3)
Article 6	Article 2(2)(c), Article 3(1)
Article 7	Article 7(1), (2) and (3)
-	Article 7(4)
-	Article 7(5)

-	Article 7(6)
-	Article 8
Article 8	Article 9
Article 9	Article 10
Article 10	Article 13
-	Article 11
-	Article 12

GIVEN under my Official Seal,

L.S.

28 March 2007

DICK ROCHE

Minister for the Environment, Heritage, and Local Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations transpose EU Directive 2003/4/EC on access to environmental information. They revoke the European Communities Act, 1972 (Access to Information on the Environment) Regulations, 1998 (S.I. 125 of 1998), which transposed an earlier EU Directive in relation to the same matter.

The Regulations define environmental information and the public authorities from which it may be requested. They also set out the manner in which environmental information is to be sought and provided, and the grounds on which public bodies may decline to provide information in certain circumstances. Provision is made for an appeals mechanism.

The Regulations provide that public authorities may charge a reasonable fee for making environmental information available. The Minister for the Environment, Heritage and Local Government is empowered to publish guidelines to which public authorities must have regard in implementing the Regulations.

S.I. No. 133 *of* 2007

EUROPEAN COMMUNITIES (ACCESS TO INFORMATION ON THE ENVIRONMENT) REGULATIONS 2007

REVISED

Updated to 1 November 2022

About this Revised Act

This Revised Statutory Instrument presents the text of the instrument as it has been amended, and preserves the format in which it was made.

Related legislation

***European Communities (Access to Information on the Environment) Regulations 2007 to 2014*:** this statutory instrument is one of a group of statutory instruments included in this collective citation, to be construed together as one (*European Communities (Access to Information on the Environment) (Amendment) Regulations 2014* (S.I. No. 615 of 2014), art. 2)). The instruments in this group are:

- *European Communities (Access to Information on the Environment) Regulations 2007* (S.I. No. 133 of 2007)
- *European Communities (Access to Information on the Environment) (Amendment) Regulations 2011* (S.I. No. 662 of 2011)
- *European Communities (Access to Information on the Environment) (Amendment) Regulations 2014* (S.I. No. 615 of 2014)

Annotations

This Revised Statutory Instrument is annotated and includes textual and non-textual amendments and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this statutory instrument, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Data Protection Act 2018* (7/2018)
- *Freedom of Information Act 2014* (30/2014)
- *Environment (Miscellaneous Provisions) Act 2011* (20/2011)
- *Environmental Protection Agency Act 1992* (7/1992)

All Acts up to and including *Bretton Woods Agreements (Amendment) Act 2022* (36/2022), enacted 1 November 2022, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Communications, Climate Action and Environment (Alteration of Name of Department and Title of Minister) Order 2020* (S.I. No. 373 of 2020)
- *European Communities (Environmental Noise) Regulations 2018* (S.I. No. 549 of 2018)
- *European Communities (Access to Information on the Environment) (Amendment) Regulations 2018* (S.I. No. 309 of 2018)
- *Communications, Energy and Natural Resources (Alteration of Name of Department and Title of Minister) Order 2016* (S.I. No. 421 of 2016)
- *Climate Action and Environment (Transfer of Departmental Administration and Ministerial Functions) Order 2016* (S.I. No. 393 of 2016)
- *Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015* (S.I. No. 209 of 2015)
- *European Communities (Access to Information on the Environment) (Amendment) Regulations 2014* (S.I. No. 615 of 2014)
- *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013)
- *Environmental Protection Agency (Industrial Emissions) (Licensing) Regulations 2013* (S.I. No. 137 of 2013)
- *European Communities (Greenhouse Gas Emissions Trading) Regulations 2012* (S.I. No. 490 of 2012)
- *European Communities (Access to Information on the Environment) (Amendment) Regulations 2011* (S.I. No. 662 of 2011)
- *Pollutant Release and Transfer Register Regulations 2011* (S.I. No. 649 of 2011)
- *European Communities (Geological Storage of Carbon Dioxide) Regulations 2011* (S.I. No. 575 of 2011)
- *European Communities (Marine Strategy Framework) Regulations 2011* (S.I. No. 249 of 2011)
- *Environment, Heritage and Local Government (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 193 of 2011)
- *European Communities (Greenhouse Gas Emissions Trading) (Aviation) Regulations 2010* (S.I. No. 261 of 2010)

All statutory instruments up to and including *Planning and Development, Maritime and Valuation (Amendment) Act 2022 (Commencement of Certain Provisions) (No. 4) Order 2022* (S.I. No. 550 of 2022), made 2 November 2022, were considered in the preparation of this revision.