

EUROPEAN COMMUNITIES ACT, 1972 (ACCESS TO INFORMATION ON THE ENVIRONMENT) REGULATIONS 1998

In exercise of the powers conferred on the Minister for the Environment and Local Government by section 3 of the European Communities Act, 1972 (No. 27 of 1972), which said powers are delegated to me by the Environment and Local Government (Delegation of Ministerial Functions) (No. 2) Order, 1997 (S.I. No. 428 of 1997), I, Dan Wallace, Minister of State at the Department of the Environment and Local Government, hereby make the following Regulations:—

REG 1

Citation

1. These Regulations may be cited as the European Communities Act, 1972 (Access to Information on the Environment) Regulations, 1998.

REG 2

Commencement

2. These Regulations shall come into operation on the 1st day of May, 1998.

REG 3

Revocation and Transitional Provisions

3. (1) The Access to Information on the Environment Regulations, 1996 (S.I. No. 185 of 1996) are hereby revoked.

(2) Notwithstanding the revocation effected by sub-article (1) the said Regulations shall continue to apply to any request for information made pursuant to those Regulations prior to the 1st day of May, 1998.

REG 4

Interpretation

4. (1) In these Regulations—

(a) a reference to an article is a reference to an article of these Regulations,

(b) a reference to a sub-article or paragraph is a reference to the sub-article or paragraph of the provision in which the reference occurs unless there is an indication that a reference to some other provision is intended.

(2) In these Regulations—

"public authority" means—

(a) (i) a Minister of the Government,

(ii) the Commissioners of Public Works in Ireland,

(iii) a local authority for the purposes of the Local Government Act, 1941,

(iv) a harbour authority within the meaning of the Harbours Act, 1946,
(v) a health board established under the Health Act, 1970,
(vi) a board or other body established by or under statute,
(vii) a company in which all the shares are held by, or on behalf of, or by directors appointed by, a Minister of the Government, or
(viii) a company in which all the shares are held by a board, company, or other body referred to in paragraph (vi) or (vii) of this definition,
having public administration functions and responsibilities, and possessing information relating to the environment; and
(b) any person or body, other than a public authority as defined in paragraph (a), which is under the control of such a public authority and has public responsibilities for the environment and possesses information relating to the environment.
(3) A public authority as defined in sub-article (2)(a) shall, in relation to any public authority as defined in sub-article (2)(b) which it controls, decide whether the powers, functions and duties assigned under these Regulations will be exercised by the public authority as defined in sub-article (2)(a) or by the public authority as defined in sub-article (2)(b).

REG 5

Scope

5. (1) These Regulations apply to information relating to the environment other than—
(a) information held in connection with or for the purposes of any judicial or legislative function, or
(b) subject to sub-article (2), information which, under any statutory provision apart from these Regulations, is required to be made available, whether for inspection or otherwise, to persons generally.
(2) Notwithstanding—
section 5 of the Local Government (Planning and Development) Act, 1992 and any regulations made thereunder,
sections 10 of the Air Pollution Act, 1987 and any regulations made thereunder, and
sections 6 of the Environmental Protection Agency Act, 1992 and any regulations made thereunder,
information on the environment held by public authorities shall be made available in accordance with article 6.

REG 6

Duty to provide information

6. (1) A public authority shall, notwithstanding any other statutory provision and subject only to the conditions and exceptions provided for in these Regulations, make available any information relating to the environment to which these Regulations apply to any person who

requests it.

(2) A request for information in accordance with sub-article (1) shall—

(a) be made in writing,

(b) state the name and address of the person making the request, and

(c) state, in terms which are as specific as possible, the information which is the subject of the request.

REG 7

Mandatory grounds for refusal of information

7. A public authority shall not make available information in accordance with article 6 where the information requested relates to—

(a) personal information held in relation to an individual who has not given consent to the disclosure of the information, or

(b) material supplied to the public authority by a third party where that third party was not, or is not capable of being put, under a legal obligation to supply the material,

or where the disclosure of the information would make it more likely that the environment to which such information relates will be damaged.

REG 8

Discretionary grounds for refusal of information

8. (1) A public authority may refuse to make available information in accordance with article 6 where the information requested affects—

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

(b) matters which are sub judice, or which are under inquiry (including disciplinary inquiries), or which are the subject of preliminary investigation proceedings, or

(c) commercial or industrial confidentiality, or intellectual property, or where the information requested relates to internal communications of the public authority or to material which is still in the course of completion.

(2) A public authority may refuse to make available information in accordance with article 6 where the request is manifestly unreasonable having regard to the volume or range of information sought.

REG 9

Separation of information

9. Nothing in article 7 or article 8(1) shall authorise a public authority not to make available, or to refuse to make available, information which, although held with information to which article 7 or article 8(1) relates, may be separated from this latter information.

REG 10

Timescale for response to request for information

10. (1) A public authority shall respond as soon as possible to a request for information in accordance with article 6 and in any case, subject to sub-article (2), not later than one month from the date on which such request is received.

(2) Where a public authority is unable, because of the nature or extent of a request for information, to respond within one month from the date on which such request is received, it shall give notice in writing to the person making the request of the reasons why it is not possible to do so and shall specify the date, not later than two months from the date on which the request was received under sub-article (1), before which the response shall be made.

(3) Where in accordance with article 7 a public authority does not make available information, or where in accordance with article 8 it refuses to make available information, it shall specify in writing the reasons therefor.

REG 11

Charges

11. A public authority may make a charge for the making available of information in accordance with article 6, provided always that such charge shall not exceed an amount which is reasonable having regard to the cost of making available the information.

Dated this 29th day of April, 1998.

Dan Wallace

Minister of State at the Department of the Environment and Local Government.

EXPLANATORY NOTE

These regulations set out the procedures for public access to information relating to the environment held by public authorities in accordance with the provisions of Council Directive of June, 1990, No. 90/313/EEC (O.J. No. L158/56 of 23 June, 1990) on the Freedom of Access to Information on the Environment. The Regulations also provide certain grounds for refusal of information and establish other procedures relevant to processing of requests by public authorities.