



STATUTORY INSTRUMENTS.

S.I. No. 662 of 2011



EUROPEAN COMMUNITIES (ACCESS TO INFORMATION ON THE
ENVIRONMENT) (AMENDMENT) REGULATIONS 2011

(Prn. A11/2355)

EUROPEAN COMMUNITIES (ACCESS TO INFORMATION ON THE ENVIRONMENT) (AMENDMENT) REGULATIONS 2011

I, PHIL HOGAN, Minister for the Environment, Community 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 further effect to Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Access to Information on the Environment) (Amendment) Regulations 2011.

2. These Regulations and the European Communities (Access to Information on the Environment) Regulations 2007 may be cited together as the European Communities (Access to Information on the Environment) Regulations 2007 to 2011 and should be construed together as one.

Interpretation

3. In these Regulations, “Regulations of 2007” refers to the European Communities (Access to Information on the Environment) Regulations 2007, (S.I. No. 133 of 2007).

Amendment of Article 5 of the Regulations of 2007

4. The Regulations of 2007 are amended by the substitution of the following for article 5:

“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.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 23rd December, 2011.

(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.”

Amendment of Article 7 of the Regulations of 2007

5. Article 7 of the Regulations of 2007 is amended by the insertion of the following after sub-article (10):

“(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.”

Amendment of Article 12 of the Regulations of 2007

6. Article 12 of the Regulations of 2007 is amended by the substitution of the following for sub-article (3):

“(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.”

Amendment of Article 14 of the Regulations of 2007

7. Article 14 of the Regulations of 2007 is amended by the insertion of the following after sub-article (2):

- “(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.”

Amendment of Article 15 of the Regulations of 2007

8. The Regulations of 2007 are amended by the substitution of the following for article 15:

“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) Subject to sub-article (4), a fee of €150 shall be charged for making an appeal to the Commissioner under article 12.

(4) 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 €50.

(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.”



GIVEN under the Official Seal of the Minister for the Environment,
Community and Local Government,
19 December 2011.

PHIL HOGAN,
Minister for the Environment, Community and Local
Government.

EXPLANATORY NOTE

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

The principal purpose of these Regulations is to amend the European Communities (Access to Information on the Environment) Regulations 2007 for the purpose of ensuring that Ireland complies with the provisions of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALE OFFICE
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,
(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)
or through any bookseller.

€2.54

