
STATUTORY INSTRUMENTS

1992 No. 3240

ENVIRONMENTAL PROTECTION

The Environmental Information Regulations 1992

Approved by both Houses of Parliament

Made - - - - 18th December 1992

Coming into force - - 31st December 1992

Whereas a draft of these Regulations has been approved by resolution of each House of Parliament in pursuance of paragraph 2(2) of Schedule 2 to the European Communities Act 1972⁽¹⁾;

Now, therefore, the Secretary of State, being a Minister designated⁽²⁾ for the purposes of subsection (2) of section 2 of that Act in relation to freedom of access to, and the dissemination of, information on the environment held by public authorities or bodies with public responsibilities for the environment and which are under the control of a public authority, in exercise of the powers conferred on him by that subsection and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Environmental Information Regulations 1992.
- (2) These Regulations shall come into force on 31st December 1992.
- (3) These Regulations shall extend to Great Britain only.

Construction of Regulations

- 2.—(1) These Regulations apply to any information which—
 - (a) relates to the environment;
 - (b) is held by a relevant person in an accessible form and otherwise than for the purposes of any judicial or legislative functions; and
 - (c) is not (apart from these Regulations) either—
 - (i) information which is required, in accordance with any statutory provision, to be provided on request to every person who makes a request; or
 - (ii) information contained in records which are required, in accordance with any statutory provision, to be made available for inspection by every person who wishes to inspect them.

(1) 1972 c. 68.

(2) The European Communities (Designation) (No. 2) Order 1992 (S.I.1992/1711).

(2) For the purposes of these Regulations information relates to the environment if, and only if, it relates to any of the following, that is to say—

- (a) the state of any water or air, the state of any flora or fauna, the state of any soil or the state of any natural site or other land;
- (b) any activities or measures (including activities giving rise to noise or any other nuisance) which adversely affect anything mentioned in sub-paragraph (a) above or are likely adversely to affect anything so mentioned;
- (c) any activities or administrative or other measures (including any environmental management programmes) which are designed to protect anything so mentioned.

(3) For the purposes of these Regulations the following are relevant persons, that is to say—

- (a) all such Ministers of the Crown, Government departments, local authorities and other persons carrying out functions of public administration at a national, regional or local level as, for the purposes of or in connection with their functions, have responsibilities in relation to the environment; and
- (b) any body with public responsibilities for the environment which does not fall within sub-paragraph (a) above but is under the control of a person falling within that sub-paragraph.

(4) In these Regulations “information” includes anything contained in any records; “records” includes registers, reports and returns, as well as computer records and other records kept otherwise than in a document; and “statutory provision” means any provision made by or under any enactment.

Obligation to make environmental information available

3.—(1) Subject to the following provisions of these Regulations, a relevant person who holds any information to which these Regulations apply shall make that information available to every person who requests it.

(2) It shall be the duty of every relevant person who holds information to which these Regulations apply to make such arrangements for giving effect to paragraph (1) above as secure—

- (a) that every request made for the purposes of that paragraph is responded to as soon as possible;
- (b) that no such request is responded to more than two months after it is made; and
- (c) that, where the response to such a request contains a refusal to make information available, the refusal is in writing and specifies the reasons for the refusal.

(3) Arrangements made by a relevant person for giving effect to paragraph (1) above may include provision entitling that person to refuse a request for information in cases where a request is manifestly unreasonable or is formulated in too general a manner.

(4) The arrangements made by a relevant person for giving effect to paragraph (1) above may—

- (a) include provision for the imposition of a charge on any person in respect of the costs reasonably attributable to the supply of information to that person in pursuance of that paragraph; and
- (b) make the supply of any information in pursuance of that paragraph conditional on the payment of such a charge.

(5) The obligation of a relevant person to make information available in pursuance of paragraph (1) above shall not require him to make it available except in such form, and at such times and places, as may be reasonable.

(6) Without prejudice to any remedies available apart from by virtue of this paragraph in respect of any failure by a relevant person to comply with the requirements of these Regulations, the obligation

of such a person to make information available in pursuance of paragraph (1) above shall be a duty owed to the person who has requested the information.

(7) Subject to regulation 4 below, where any statutory provision or rule of law imposes any restriction or prohibition on the disclosure of information by any person, that restriction or prohibition shall not apply to any disclosure of information in pursuance of these Regulations.

Exceptions to right to information

4.—(1) Nothing in these Regulations shall—

- (a) require the disclosure of any information which is capable of being treated as confidential; or
- (b) authorise or require the disclosure of any information which must be so treated.

(2) For the purposes of these Regulations information is to be capable of being treated as confidential if, and only if, it is—

- (a) information relating to matters affecting international relations, national defence or public security;
- (b) information relating to, or to anything which is or has been the subject-matter of, any legal or other proceedings (whether actual or prospective);
- (c) information relating to the confidential deliberations of any relevant person or to the contents of any internal communications of a body corporate or other undertaking or organisation;
- (d) information contained in a document or other record which is still in the course of completion; or
- (e) information relating to matters to which any commercial or industrial confidentiality attaches or affecting any intellectual property.

(3) For the purposes of these Regulations information must be treated as confidential if, and only if, in the case of any request made to a relevant person under regulation 3 above—

- (a) it is capable of being so treated and its disclosure in response to that request would (apart from regulation 3(7) above) contravene any statutory provision or rule of law or would involve a breach of any agreement;
- (b) the information is personal information contained in records held in relation to an individual who has not given his consent to its disclosure;
- (c) the information is held by the relevant person in consequence of having been supplied by a person who—
 - (i) was not under, and could not have been put under, any legal obligation to supply it to the relevant person;
 - (ii) did not supply it in circumstances such that the relevant person is entitled apart from these Regulations to disclose it; and
 - (iii) has not consented to its disclosure; or
- (d) the disclosure of the information in response to that request would, in the circumstances, increase the likelihood of damage to the environment affecting anything to which the information relates.

(4) Nothing in this regulation shall authorise a refusal to make available any information contained in the same record as, or otherwise held with, other information which is withheld by virtue of this regulation unless it is incapable of being separated from the other information for the purpose of making it available.

(5) In this regulation “legal or other proceedings” includes any disciplinary proceedings, the proceedings at any local or other public inquiry and the proceedings at any hearing conducted by a person appointed under any enactment for the purpose of affording an opportunity to persons to make representations or objections with respect to any matter.

Existing rights to information

5. Where any information which is not information to which these Regulations apply is required under any statutory provision to be made available to any person, the arrangements made by any relevant person for giving effect to the requirements of that provision shall be such as to secure—

- (a) that every request for information relating to the environment which is made for the purposes of that provision is responded to as soon as possible;
- (b) that no such request is responded to more than two months after it is made;
- (c) that, where the response to such a request contains a refusal to make information available, the refusal is in writing and specifies the reasons for the refusal; and
- (d) that no charge that exceeds a reasonable amount is made for making information relating to the environment available in accordance with that provision.

Department of the Environment

18th December 1992

Michael Howard
Secretary of State for the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Directive [90/313/EEC](#) on the freedom of access to information on the environment (OJNo. L158, 23.6.90, p.56).

Regulation 2(1) provides that the Regulations apply where the information requested is not the subject of other statutory obligations of disclosure. Paragraph (2) of regulation 2 provides a definition for the purposes of the Regulations of information which relates to the environment and paragraph (3) indicates the public authorities and other persons who are subject to the obligation to make such information available under the Regulations. These paragraphs are based on Articles 2 and 6 of the Directive.

Regulation 3(1) contains the primary obligation for environmental information to be made available on request. Paragraphs (2) to (6) of regulation 3 give effect to the provisions of the Directive relating to procedural arrangements and make clear that failure to comply with the requirements of the Regulations will be a breach of the duty owed to the person making the request. Paragraph (7) of regulation 3 disapplies any statutory provision or rule of law restricting or prohibiting disclosure of information inconsistently with the requirements of the Regulations.

Regulation 4 provides for the categories of information to which the obligation of disclosure does not apply: paragraph (2) provides for those cases where the information is not required to be disclosed and paragraph (3) provides for those cases where the Regulations neither authorise nor require the disclosure of the information.

Regulation 5 provides that where any environmental information not covered by the Regulations is required by any statutory provision to be made available to any person, arrangements for doing so must be sufficient to satisfy the requirements imposed by the Directive and set out in the regulation.