

## 1993 No. 45

## EUROPEAN COMMUNITIES

## ENVIRONMENTAL PROTECTION

**The Environmental Information Regulations  
(Northern Ireland) 1993**

*Made* . . . . . 9th February 1993

*Coming into operation* . . . . . 31st March 1993

The Department of the Environment, being a department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to freedom of access to, and 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 by that section and of every other power enabling it in that behalf, hereby makes the following regulations:

*Citation and commencement*

1. These regulations may be cited as the Environmental Information Regulations (Northern Ireland) 1993 and shall come into operation on 31st March 1993.

*Interpretation*

2.—(1) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these regulations—

“information” includes anything contained in any records; and

“records” includes registers, reports and returns, as well as computer records and other records kept otherwise than in a document.

(3) For the purposes of these regulations information relates to the environment if, and only if, it relates to any of the following—

(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) or are likely adversely to affect anything so mentioned;

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(a) S.I. 1992/1711

(b) 1972 c. 68

(c) 1954 c. 33 (N.I.)

(c) any activities or administrative or other measures (including any environmental management programmes) which are designed to protect anything so mentioned.

(4) For the purposes of these regulations the following are relevant persons—

(a) all government departments, district councils and other persons carrying out functions of public administration 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) and is under the control of a person falling within that sub-paragraph.

### *Application*

3. 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.

### *Obligation to make environmental information available*

4.—(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) as to secure—

(a) that every request made for the purpose of that paragraph is responded to as soon as possible;

(b) that such a request is responded to within two months of the request being 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) 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) 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) 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) shall be a duty owed to the person who has requested the information.

(7) Subject to regulation 5, 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*

5.—(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 information—

(a) relating to matters affecting international relations, national defence or public security;

(b) relating to, or to anything which is or has been the subject-matter of, any legal or other proceedings (whether actual or prospective);

(c) 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) contained in a document or other record which is still in the course of completion; or

(e) 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 4—

(a) it is capable of being so treated and its disclosure in response to that request would (apart from regulation 4(7)) 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; and
  - (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, make it more likely that the environment to which such information related would be damaged.

(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 in respect of any matter.

#### *Existing rights to information*

6. 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 purpose of that provision is responded to as soon as possible;
- (b) that such a request is responded to within two months of the request being 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.

Sealed with the Official Seal of the Department of the Environment on 9th February 1993.

(L.S.)

R. W. Rogers

Assistant Secretary

*(This note is not part of the Regulations.)*

These Regulations implement Council Directive 90/313/EEC (O.J. No. L158/56), on the freedom of access to information on the environment.

Paragraph (3) of regulation 2 provides a definition for the purposes of the Regulations of information which relates to the environment and paragraph (4) indicates the public authorities and other persons who are subject to the obligation to make such information available under the Regulations.

Regulation 3 provides that the Regulations apply where the information requested is not the subject of other statutory obligations of disclosure.

Regulation 4(1) contains the primary obligation for environmental information to be made available on request. Paragraphs (2) to (6) of regulation 4 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 4 disappplies any statutory provision or rule of law restricting or prohibiting disclosure of information inconsistently with the requirements of the Regulations.

Regulation 5 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 6 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 Regulations.

Copies of Council Directive 90/313/EEC and extracts from the Official Journal of the European Communities may be obtained from Her Majesty's Stationery Office, 16 Arthur Street, Belfast BT1 4GD.

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**1993 Nos. 46-49**

These Order have been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. Summaries are given in the List of Statutory Rules of a Local Character under the heading ROADS.