



Circular AIE/1/2012

European Communities (Access to Information on the Environment)(Amendment) Regulations 2011

A Chairde,

I am directed by Minister Phil Hogan, T.D., Minister for the Environment, Community and Local Government, to refer to the European Communities (Access to Information on the Environment)(Amendment) Regulations 2011 (S.I. No. 662 of 2011) (“the 2011 Regulations”) which were signed by the Minister on 19 December 2011 and published in Iris Oifigiúil on 23rd December 2011

The purpose of this guidance note is to provide an overview of the Regulations: it does not purport to provide a legal interpretation of the Regulations.

Purpose of the 2011 Regulations

These Regulations amend the European Communities (Access to Information on the Environment) Regulations 2007 and were prepared in order to complete transposition of Directive 2003/4/EC on Public Access to Environmental Information. Compliance with the provisions of this Directive will also help ensure that Ireland is compliant with the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

Background

Directive 2003/4/EC (the AIE Directive) provides that, subject to certain exceptions, information relating to the environment held by, or for, a public authority shall be made available on request to any person, without that person having to state an interest.

Amendments to the European Communities (Access to Information on the Environment) Regulations 2007

The 2011 Regulations specifically provide for the following:

- The requirement to ensure that, in the event of an emergency likely to cause damage to human health or the environment, relevant information is disseminated to the public;
- The requirement to allow the public to examine environmental information in situ, without imposing a charge for such a facility;
- The requirement to ensure that third parties incriminated by the release of information have access to legal recourse;
- The requirement that specific types of environmental information are made available by public bodies;

- The requirement that public bodies maintain lists or registers of the environmental legislation held by the authority and that they designate an information officer or provide an information point to give clear indications of where information can be found and;
- the Office of the Commissioner for Environmental Information¹ to deem appeals to be withdrawn and to allow fees to be waived in certain circumstances.

The 2011 Regulations should be read together with the 2007 Regulations. They should be construed together as one and may be cited as the European Communities (Access to Information on the Environment) Regulations 2007 to 2011.

An unofficial consolidated version of the European Communities (Access to Information on the Environment) Regulations 2007 to 2011 is available on www.environ.ie.

Guidelines to the Regulations

The Department of the Environment, Community and Local Government has published revised Guidance Notes on www.environ.ie. These replace the previous guidance notes and are intended as an aid to public authorities in performing their functions under the Regulations.

FoI and AIE

The Freedom of Information (FoI) Act 1997 (as amended) operates in parallel to the AIE regulations. Both legislative codes are fully distinct and separate information systems. In practice however, many public bodies have indicated that their FoI officer/unit also has responsibility for AIE. This is generally considered to be best practice, both in terms of organisational efficiencies and public interaction with the Department/agency.

Ratification of the Aarhus Convention and AIE

Ireland signed the Aarhus Convention on 25 June 1998. Progress towards ratification of the Convention is closely aligned with work at EU level and, in that context; the European Union has adopted two Directives as part of the ratification process for the Convention. These deal with public access to environmental information (2003/4/EC) and public participation in certain environmental decision-making procedures (2003/35/EC).

As previously stated, full compliance with the provisions of Directive 2003/4/EC will help ensure that Ireland is compliant with the Aarhus Convention.

When Ireland completes ratification of the Aarhus Convention, public authorities will be obliged to engage with the associated compliance mechanism. It will be open to members of the public to issue communications (or complaints) to the Aarhus Compliance Committee in the event that a public body does not fulfil its obligations under the Convention.

Participation in the compliance mechanism is a time-consuming process, which may require legal advice and support. While limited support may be available from the Department of Environment, Community and Local Government, it will be a matter for individual bodies to engage directly with the compliance committee. Therefore every effort should be made

¹ The Office of the Commissioner for Environmental Information (OCEI) performs a similar role to that of the Information Commissioner under FOI legislation and the role is carried out by the same Commissioner and office.

by public bodies to fully comply with the obligations of the AIE Regulations and, in turn, with the Convention, in order to minimise the risk of complaints.

A further circular on the Aarhus Convention, associated EU Directives, and corresponding Irish legislation will issue when Ireland ratifies this Convention.

Any queries on the amended AIE regulations may be directed to either Mr Lorraine O'Donoghue (tel: 053 9117337, email: lorraine.o'donoghue@environ.ie) or Ms Aoife Joyce (tel: 053 911 7515, email aoife.joyce@environ.ie).

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