



[aarhus@decc.gov.ie](mailto: aarhus@decc.gov.ie)

## **Public Consultation on proposed amendments to the Access to Information on the Environment (AIE) Regulations 2007-2018**

To whom it may concern

I am making a submission on behalf of the Department of Justice and its associated agencies regarding the above Public Consultation.

The main Department do not receive many AIE requests and therefore have no observations to make at this time.

The request for contributions to the public consultation was circulated to the Department's associated agencies and I am outlining below, the observations from An Garda Síochána who are currently receiving a high number of AIE requests.

Overall it is felt that the proposed changes appear to dilute the ability of public bodies to refuse a request either in part or full.

### **Part 2 General Duties of Public Authorities**

The new draft places a range of additional obligations on public bodies. They appear very broad and require some further clarification and definition as to how they are to be implemented.

Regulation 4(1)(b) & (c) – What is meant by the term “authorisations”?

Regulation 4(1)(f) – This regulation is very broad and too vague to be of practical use especially for those public bodies whose functions are not environmentally focused.

- What is meant by “organize” environmental information?
- What is meant by “active and systematic dissemination” How is it envisioned that public bodies do this?
- How are public bodies to “organize” and “disseminate” information held for the public bodies?



- How are public bodies to manage information held by third parties such as suppliers and contractors?

Regulation 4(1)(h) – This regulation places a very significant obligation on public bodies in terms of providing access to the public to records. Does the requirement to maintain facilities for the examination of information include physical access?

Regulation 4(2)(b) – this needs to be amended to “policies, plans and programmes affecting or likely to affect the elements and factors referred to in paragraphs (a) and (b) of the definition of environmental information as well as measures or activities designed to protect same”. Current wording is considered to be vague.

- How is the final clause “where such information is directly relevant to the functions of that public body” to be defined?

### **Part 3 Requests for Environmental Information**

Regulation 6(2)(b) – This remains unchanged from the existing Regulations and remains problematic. It is contradictory to the one month timeframe laid out in the Regulations. The regulation should give consideration to the ability of the public body to process a request within the requesters’ stated timeframe. There must be an obligation on requesters to state a reasonable timeframe.

Regulation 6(3)(c) – Are public bodies expected to maintain information in multiple formats in order to satisfy this regulation? If a public body maintains information in the format suitable to its own business needs it cannot be reasonably expected to keep such information in multiple formats in order to facilitate potential future requests.

Regulation 6(6) - As currently drafted this regulation is less helpful to requesters than the current Regulations. Obligation now on the requester to make a fresh application to another public body rather than have the request transferred.

Regulation 6(10) – This is of particular concern. It removes the mandatory grounds for refusal and weakens the protections given to personal information and to commercially confidential information.

- The requirement to contact concerned third parties and gain their input places a further impractical administrative burden on public bodies.
- What are the timeframes for consultations with concerned third parties?



- Appeals from third parties to an intended decision will slow down the actual issuing of a final decision by the public body. Given the current turnaround time of cases from the OCEI, requesters will face lengthy delays before a public body can issue a decision. Such delays are in effect a limiting of access to environmental information.
- In many cases it is clear to the public body from a review of the records in question that personal information or commercially confidential information is included and that the release of such information is clearly likely to adversely affect the third party interest. In such cases public bodies should be allowed to apply the proposed Regulation 10 without further burdensome and time consuming processes being imposed.

Regulation 7(1)(d) - Request may be refused where the request is manifestly unreasonable. There is no mention of volume or range or volume of information as contained in the current Regulations. How therefore is “manifestly unreasonable” to be defined? What parameters are to be used in considering what is manifestly unreasonable?

If you require any further information or clarification, please do not hesitate to contact me.

Yours sincerely

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AIE Officer

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