

ACCESS TO INFORMATION ON THE ENVIRONMENT (AIE)

European Communities (Access to Information on the Environment) Regulations 2007 to 2018 (S.I. No. 133 of 2007 and S.I. No. 662 of 2011 and S.I. No. 615 of 2014 & S.I. No. 309 of 2018) (hereafter referred to as the AIE Regulations), give legal rights to those seeking to access information on the environment from public authorities.

Definition of Environmental Information

Environmental Information can be held in any material form (including written, visual, aural, or electronic) and is defined as follows:

- The state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape, and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms and the interaction among these elements.
- Factors, such as substances, energy, noise, radiation, or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment.
- Measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in paragraphs (a) and (b) as well as measures or activities designed to protect those elements;
- Reports on the implementation of environmental legislation;
- Cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in paragraph (c), and;
- The state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures in as much as they are, or may be, affected by the state of the elements of the environment referred to in paragraph (a) or, through those elements, by any of the matters referred to in paragraphs (b) and (c).

Under these regulations, information relating to the environment held by, or for, a public authority must be made available on request, subject to certain exceptions. The AIE regulations also oblige public authorities to be proactive in disseminating environmental information to the public.

The AIE Regulations provide a definition of environmental information; outline the way requests for information may be submitted to public authorities and the manner in which public authorities are required to deal with requests e.g., timeframes for response. The regulations also provide for a formal appeals procedure in the event that a person is unhappy with a decision on their request.

What public bodies are subject to AIE?

The AIE Regulations broadly define “public authorities” to encompass all bodies that have a role in public administration and that possess environmental information. It is important to note that this definition is broader in scope than the definition of “public body” in the FOI Acts.

Under the 2011 Regulations, the Minister is required to publish an indicative list of public authorities that are subject to the AIE Regulations. These are;

- Government Departments e.g. the Department of Environment, Community and Local Government
- Local authorities
- Non-commercial state agencies e.g. the Environmental Protection Agency,
- Commercial state agencies e.g. EirGrid,
- Regulatory bodies e.g. the Commission for Energy Regulation

How to make an AIE application

When making a request for information under the AIE Regulations, **you are required to: state that the application is being made under the AIE Regulations** and submit by email to aie@nationalwaterforum.ie or in writing to the Access to Information on the Environment Officer, The Water Forum C/o, Civic Offices, Limerick Road, Nenagh, Co. Tipperary

- provide your contact details
- state, in terms that are as specific as possible, the environmental information required, and
- if you require the information in a specific format or manner of access, you should specify this in your request.

It is not necessary to state an interest in the request.

Fees

There is no initial fee for making an application under the AIE Regulations. The Water Forum may charge for information supplied under the regulations. This charge may include not only postal and photocopying costs, but also costs attributable to the time spent by staff on answering an individual request for information, which includes the time spent on searching for the information and putting it in the format required. It does not however include costs attributable to the establishment and maintenance of any registers of environmental information as provided for in Article 15(1)(b) of the AIE regulations. Such charges would be on the same basis as those currently applied under the Freedom of Information Acts, i.e.:-

1. If an applicant requires hard copies, there may be a fee of €0.05 per sheet depending on the volume of information contained in the request.
2. A charge of €10.16 applies to the provision of information on CD-ROM
3. An hourly rate of €20 per staff member engaged in dealing with the AIE request

This is however subject to the overriding provision contained in Article 5 of the Directive that any such charge shall not exceed a reasonable amount.

Details of charges, if any, will be advised once the request has been examined and considered.

It should be noted that fees in respect of supplying information, may be waived where the cost is estimated at less than 10.00 euro.

Applying for a Review

There is no charge for applying for an internal review.

It costs €50 to take an appeal to the Commissioner for Environmental Information, or €15 if

you are the holder, or dependent of a holder of a medical card, or a third party appealing the decision to release certain information.

Requirements for dealing with requests

In general, the Water Forum is required to respond to an AIE request within one month of receipt of the request. Where, due to the complexity or volume of information required, the Water Forum is unable to respond within the one-month timeframe, they are required to write to the applicant within the month, indicating when a response will issue. This date should not be more than two months from the receipt of the original request.

If the Water Forum does not have the information requested; it can either transfer the request to another public authority or advise the applicant of where it believes the request should be directed. In either case, it is required to notify the applicant.

Grounds for refusing information

There are a number of grounds on which a public authority can refuse information; these include when a body is acting in a legislative or judicial capacity (Article 3(2)) and both mandatory (Article 8) and discretionary (Article 9) grounds for refusing information. When making a decision on whether to release information, a public body is required to consider the provisions in Article 10.

Appealing a decision

Under Article 11 of the AIE Regulations you have a right to seek an internal review of the initial decision. You may also request an internal review if you have not received a response within the appropriate timeframe. An internal review must be requested within one month of receipt of the original decision (the public authority may extend this timeframe but is not required to do so). There is no charge for requesting an internal review.

An internal review involves a complete reconsideration of the matter by a member of the staff of the public authority, who may affirm, vary or annul the original decision made.

A written outcome of the review informing you of the decision, the reason for the decision and advising you of your right of appeal to the Commissioner for Environmental Information, including the time limits and fees associated with such an appeal, will be issued to you within one month of the date of receipt of the request for the review.

If you are not satisfied with the outcome of the internal review, you can appeal to the Office of the Commissioner for Environmental Information (OCEI). You must appeal within one month of receiving the decision on the internal review from the public authority. However, the Commissioner may extend this time limit in individual cases.

A written appeal should be submitted to the Appeals Officer at the following address:

Office of the Commissioner for Environmental Information,

6 Earlsfort Terrace,

Dublin 2.

D02W773

Telephone: +353 (0)1 639 5729

Further contact details and information on the Commissioner's Office are contained on the Office of the Information Commissioner (OIC) website (<https://www.oic.ie/>)

Assistance in Making AIE Requests

If you have any queries regarding the making of requests the AIE Officer, The Water Forum, Civic Offices can be contacted by email at aie@nationalwaterforum.ie

Information Point

This website is an information point for the purpose of the AIE Directive. If you require further environmental information than that which is provided on the website, you may submit an AIE request or contact the AIE officer, as outlined above.

Further Information

The AIE Regulations were introduced to give effect in Ireland to Directive 2003/4/EC (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32003L0004>) of the European Parliament and of the Council on Public Access to Environmental Information (the AIE Directive) This Directive repealed Council Directive 90/313/EEC which was the previous EU instrument providing for access to environmental information. The AIE Directive was adopted by the EU to give effect to the Access to Information pillar of the 1998 UNECE Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters (the Aarhus Convention).

Please contact aie@nationalwaterforum.ie for further information, or to make a formal request.