

Principal statutes and statutory instruments

Environmental Information Regulations 2004 SI 2004/3391	<p>The Regulations are made under powers created by the European Communities Act 1972, s 2(2) and establish the duty on all <i>relevant persons</i> to make available <i>environmental information</i> upon request to every person who requests it unless that information is required to be made available under any other statutory provision. Regulation 3 applies the Regulations to public authorities and makes provision in relation to the environmental information held by public authorities. It also provides that a public authority will not be subject to these Regulations to the extent that it is acting in a judicial or legislative capacity and that the Regulations do not apply to either House of Parliament to the extent required for the purpose of avoiding an infringement of the privileges of either House. And it provides that each Government department is to be treated separately for the purposes of Parts 2, 4 and 5 of the Regulations. Regulation 4 requires public authorities progressively to make available environmental information to the public by electronic means which are easily accessible. Regulation 5 requires a public authority that holds environmental information to make it available on request, as soon as possible and no later than 20 working days after the date of receipt of the request. Under regulation 8, a public authority may charge applicants for environmental information a reasonable amount for making the information available. Under regulation 12, a public authority may refuse to disclose environmental information if an exception to disclosure applies and the public authority decides that in all the circumstances the public interest in maintaining the exception outweighs the public interest in disclosing the information. Regulation 13 makes provision for exceptions to the disclosure of environmental information which includes personal data of which the person requesting the information is not the data subject.</p> <p>Regulation 19 provides that an offence will be committed by any person who alters, defaces, blocks, erases, destroys or conceals any record of the public authority with the intention of preventing the disclosure to an applicant of the information that they are entitled to receive under regulation 5. The maximum fine is level 5 on the standard scale. Except for prosecutions brought by the Information Commissioner, prosecutions for the offence require the consent of the Director of Public Prosecutions or, as appropriate, the Director of Public Prosecutions for Northern Ireland.</p> <p>Regulation 20 amends section 39 of the Freedom of Information Act 2000. The effect of the amendment is that information which can be required to be disclosed to the public under these Regulations (or which could be required to be disclosed but for an exception in these Regulations) is exempt information for the purposes of that Act.</p>
Environment and Safety Information Regulations 1988	<p>The Regulations establish general rules which apply to the provision and maintenance of all registers containing environmental information that are required to be maintained under any statutory provision. Examples of relevant statutory provisions which require the keeping of public registers relevant to environmental information are given overleaf.</p>
Freedom of Information Act 2000	<p>The Act introduced wide ranging rights of access to information held by specified public bodies. S.74 empowers the SoS to make regulations relating to the provision of access to environmental information in pursuit of implementation of the Aarhus Convention of public access and participation in decision making on environmental matters.</p>

What is Environmental Information?

The Environmental Information Regulations 2004 apply to any information held by a relevant person which relates to the environment that is not required to be made available for public access through any other statutory provision. Information is held to relate to the environment if it is relevant to:

1. 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;
2. 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 referred to above;
3. 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 (a) and (b) as well as measures or activities designed to protect those elements;
4. reports on the implementation of environmental legislation;
5. cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities above; 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 inasmuch as they are or may be affected by the state of the elements of the environment referred to in (1) or, through those elements, by any of the matters referred to in (2) and (3); Information is anything contained in any records, including registers, reports and returns, as well as computer records and other records kept otherwise than in a document.

Who is a Relevant Person?

The Environmental Information Regulations 2004 apply only to information held by relevant persons. Relevant persons are Ministers of the Crown, Government departments, local authorities and all other persons carrying out functions of public administration at a national, regional or local level who have responsibilities for the environment in some way during or in connection with the exercise of their functions. Also included would be any body with public responsibility for the environment if acting under the control of a person identified above.

Companies and other organisations which are not public bodies and who do not have environmental responsibilities under the control of a public body subject to the Regulations are not under a duty to make available environmental information that they may hold.

What Public Registers are maintained under relevant statutory provisions?

Register	Statutory Provision	Summary Content	Maintained by
Integrated Pollution Control (IPC) and Air Pollution Control (APC)	s.20 Environmental Protection Act 1990 and Reg 15 Environmental Protection (Applications, Appeal and Registers) Regulations 1991 SI 1991/507)	IPC and APC applications, responses to consultations, authorisations, variations, transfer of authorisations, enforcement or prohibition notices, revocations, appeals, convictions, information furnished in pursuance of conditions, directions, any assessments of environmental consequences of carrying on of a prescribed process and any other matters that may be prescribed. Information on monitoring or superseded information is kept on the register for a minimum of four years.	Environment Agency with copies held by each relevant local authority for IPC processes and local authority with copies held by the Environment Agency for APC processes
Integrated Pollution Prevention and Control (IPPC)	Reg 29, and Schedule 9 of the Pollution Prevention and Control (England and Wales) Regulations 2000	For IPPC and Part B applications information is generally similar to above plus any assessments of environmental consequences of carrying on of a prescribed process. For waste management activities, copies of previous Waste Management Licences if still relevant to determination of any pollution risk under Reg 19.. Details of any formal caution included in the register must be removed after five years since the caution was given.	Environment Agency with copies held by each relevant local authority for IPPC activities and local authority with copies held by the Environment Agency for any Part B processes.
Radioactive Substances	s.39 Radioactive Substances Act 1993	Applications, authorisations and registration documents, any documents issued by the enforcing authority convictions.	Environment Agency with copies held by the local authority.
Water Quality and Pollution Control	s.190 Water Resources Act 1991	Applications for consent to discharge, consents, notices of water quality objectives, monitoring results of samples taken by the Agency, monitoring results taken by any other person so required by the Agency, and any matters relating to Authorisations under the Environmental Protection Act in respect of Integrated Pollution Control.	Environment Agency
Abstraction and Impounding Licences	s.189 Water Resources Act 1991	Applications, licences, revocations, variations.	Environment Agency
Waste Management Licences	s.64 Environmental Protection Act 1990 and reg.10 of Waste	Current and recently current waste management licences, applications, modifications, modification notices, revocation notices,	Environment Agency with copies of key information being held by

	Management Licensing Regs 1994	suspension notices, appeals, completion certificates and applications for surrender of licenses, convictions, directions, monitoring results, summaries of special waste generation in the area, special waste consignment notes, any matters relating to treatment, keeping, disposal of waste or any pollution caused by waste.	each relevant waste collection authority (normally a Unitary or District Council)
Carriers and Brokers of Controlled Waste	Para.12 Sch.4 of the Waste Management Licensing Regulations 1994.	Carriers registration or brokers registration certificates.	Environment Agency

Reference to the Environment Agency or local authority means the offices of the relevant body within whose area the activity takes place.