

Introduction to Access to Information on the Environment (AIE) Regulations

Under Directive 2003/4/EC of the European Parliament and of the Council, information relating to the environment, which is held by a public body, must be made available on request to any person, subject to certain exemptions.

This AIE Directive was adopted by the European Union to ensure that all EU member states comply with the 'Aarhus' Convention, which allows for information on the environment to be made available publicly.

The core objectives of the AIE Directive are:

- To guarantee the right of access to environmental information held by or for public authorities and to set out the basic terms and conditions of, and practical arrangements for, its exercise, and
- To ensure that, as a matter of course, environmental information is progressively made available and disseminated to the public in order to achieve the widest possible systematic availability and dissemination to the public of environmental information.

The European Communities (Access to Information on the Environment) Regulations 2007 to 2011 (S.I. No. 133 of 2007 and S.I. No. 662 of 2011) gives legal right to this.

What does AIE Cover?

There are six categories of information available as follows:

- The state of the elements of the environment e.g. air, water, soil, land, landscape, biological diversity
- Factors affecting, or likely to affect, the elements of the environment, e.g. energy, noise, radiation, waste and other releases into the environment
- Measures designed to protect the elements of the environment e.g. policies, legislation, plans, programs, environmental agreements
- reports on the implementation of environmental legislation
- Analyses and assumptions used within the framework of measures designed to protect the environment
- The state of human health and safety, the food chain, cultural sights and built structures in as much as they may be affected by the elements of the environment.

Information which is available to the public (eg: planning files) do not fall under the remit of AIE regulations.

How do I apply for information under AIE?

Requests under AIE regulations must be made in writing to the Freedom of Information Office, Kerry County Council, Áras an Chontae, Rathass, Tralee, Co. Kerry, or by email to AIE@kerrycoco.ie

The request should state:

- Name, address and contact details of the requester
- As clearly as possible, the information you seek under AIE regulations
- If you require the information in a specific format, the type of format you wish the information to be submitted in.

Timeframe

Similar to a Freedom of Information request, Kerry County Council is required to respond to a request made under AIE Regulations within one month of having received a request.

Where, due to the complexity of volume of information required, a public authority is unable to reply to the applicant within one month, they should write to the applicant within that time frame setting out the reasons why they are unable to do so.

Kerry County Council should then inform the requester of the date by which they will respond, which should not be more than two months from the date of receipt of the original request

If Kerry County Council 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 Refusal of Requests

Kerry County Council may refuse access to information on a number of mandatory grounds and on a number of discretionary grounds.

Information to which mandatory refusal is applied includes:

- Personal information
- Information supplied by a third party voluntarily
- Material, the disclosure of which would make it more likely that the environment to which such material related would be damaged
- Confidentiality of the proceedings of public authorities.

Under the AIE Regulations Kerry County Council may refuse to give you access to information on discretionary grounds. The type of information which may be refused includes:

- International relations, national defence or public security
- Environmental information relating to anything which is the subject matter of any legal proceedings, or of any formal inquiry (whether past or present), or any preliminary investigation.
- Commercial or industrial confidentiality
- Intellectual property rights
- Material in the course of completion
- Internal communications with public authorities

- The request is considered to be unreasonable due to the volume or range of information sought or the request is too general.

Fees

There is no fee for making a request under AIE regulations.

However, if there is a significant cost to the Local Authority in relation to the cost of supplying the information requested, including searching, retrieving, compiling or copying the information requested, a search and retrieval fee may apply.

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 €0.04 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

There is no fee charged for the internal review process.

The AIE Regulations provide that a fee of €150 is charged for an appeal to the Commissioner for Environmental Information. However, this is reduced to €50 on production of a valid medical card, or in the case of a third party appealing a decision to release information which they believe may affect them.

Appealing a Decision

If you are not happy with the response, or have not received a response within the appropriate timeframe, you are entitled to seek an Internal Review of the decision, or lack of, under Article 11 of the AIE regulations.

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.

There is no charge for requesting an Internal Review.

A written decision of the Internal Review will be issued within one month of the date of receipt of an appeal, affirming or varying the original decision. This correspondence will also outline your further right to appeal this decision to the Commissioner for Environmental Information.

If you are not happy with the result of the Internal Review and choose to appeal the decision to the Commissioner for Environmental Information, you must do so within one month of receiving the Internal Review decision.

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

**Office of the Commissioner for Environmental Information,
18 Lower Leeson Street,
Dublin 2.
Telephone: +353 (0)1 639 5689**

Further information is available at www.oic.gov.ie