

Internal review of refusal

11. (1) Where the applicant's request has been refused under article 7, in whole or in part, the applicant may, not later than one month following receipt of the decision of the public authority concerned, request the public authority to review the decision, in whole or in part.

(2) Following receipt of a request for a review under sub-article (1), the public authority concerned shall designate a person unconnected with the original decision whose rank is the same as, or higher than, that of the original decision maker to review the decision and that person shall—

(a) affirm, vary or annul the decision, and

(b) where appropriate, require the public authority to make available environmental information to the applicant, in accordance with these Regulations.

(3) A decision under sub-article (2) shall be notified to the applicant within one month from receipt of the request for the internal review.

(4) Where the decision under sub-article (2) affirms a decision under article 7, or varies it in a way that results in the request being refused in whole or in part, the public authority concerned shall—

(a) specify the reasons for the decision under sub-article (2), and

(b) inform the applicant of his or her right of appeal in accordance with these Regulations, including the time within which such right may be exercised.

(5) In sub-article (1) and article 12(3)(a), the reference to a request refused in whole or in part includes a request that—

(a) has been refused on the ground that the body or person concerned contends that the body or person is not a public authority within the meaning of these Regulations,

(b) has been inadequately answered, or

(c) has otherwise not been dealt with in accordance with Article 3, 4 or 5 of the Directive (including the ground that the amount of the fee charged under article 15(1) is excessive).

Appeal to Commissioner for Environmental Information

12. (1) There is established the office of Commissioner for Environmental Information and the holder of the office shall be known as the Commissioner for Environmental Information and shall be independent in the performance of his or her functions.

(2) The holder of the office of Commissioner for Environmental Information shall be the person who, for the time being, holds the office of Information Commissioner under the Freedom of Information Acts 1997 and 2003.

(3) Where—

(a) a decision of a public authority has been affirmed, in whole or in part, under article 11, or

(b) a person other than the applicant would be affected by the disclosure of the environmental information concerned, the applicant or other person affected may appeal to the Commissioner against the decision of the public authority concerned.

- (4) (a) An appeal under this article shall be initiated—
- (i) not later than one month after receipt of the decision under article 11(3), or
 - (ii) where no decision is notified by a public authority, not later than one month from the time when a decision was required to be notified under article 11(3).
- (b) Where the Commissioner is satisfied, in the circumstances of a particular case, that it is reasonable to do so, he or she may extend the time for initiating an appeal under this sub-article.
- (5) Following receipt of an appeal under this article, the Commissioner shall—
- (a) review the decision of the public authority,
 - (b) affirm, vary or annul the decision concerned, specifying the reasons for his or her decision, and
 - (c) where appropriate, require the public authority to make available environmental information to the applicant, in accordance with these Regulations.
- (6) The Commissioner may, for the purposes of this article, do any of the following:
- (a) require a public authority to make available environmental information to the Commissioner and, where appropriate—
 - (i) require the public authority concerned to attend before the Commissioner for that purpose, and
 - (ii) where the public authority is a body corporate, require its chief officer to attend, - (b) examine and take copies of any environmental information held by a public authority and retain it in his or her possession for a reasonable period,
 - (c) enter any premises occupied by a public authority and there require to be furnished with such environmental information as he or she may reasonably require, or take such copies of, or extracts from, any environmental information found or made available on the premises.
- (7) A public authority shall comply with a decision of the Commissioner under sub-article (5) within 3 weeks after its receipt.
- (8) Where a public authority fails to comply with a decision of the Commissioner within the period specified in sub-article (7), the Commissioner may apply to the High Court for an order directing the public authority to comply with that decision and, on the hearing of such an application, the High Court may grant such relief accordingly.
- (9) (a) The Commissioner may refer any question of law arising in an appeal under this article to the High Court for determination and shall postpone the making of a decision until after the determination of the court proceedings.
- (b) The High Court or, on appeal from that Court, the Supreme Court, may order that some or all of the costs of an applicant or other person affected in relation to a reference under this sub-article be paid by the public authority concerned.
- (10) The Commissioner shall be assisted by the staff of the office of the Information Commissioner and by such other resources as may, from time to time, be available to that office.

Appeal to High Court on point of law

13. (1) A party to an appeal under article 12 or any other person affected by the decision of the Commissioner may appeal to the High Court on a point of law from the decision.

(2) An appeal under sub-article (1) shall be initiated not later than 2 months after notice of the decision under article 12(5) was given to the party to the appeal or other person affected.

(3) Where an appeal under this article by an applicant or other person affected is dismissed by the High Court or, on appeal from that Court, the Supreme Court, the Court may order that some or all of the costs in relation to the appeal of any person affected be paid by the public authority concerned, if it considers that the point of law concerned was of exceptional public importance, and but for this sub-article, would not so order.

(4) In an appeal under this article to the High Court or, on appeal from that Court, the Supreme Court, the Court shall, where appropriate, specify the period within which effect shall be given to its order.

Guidelines

14. (1) The Minister may publish guidelines in relation to the implementation of these Regulations by public authorities.

(2) A public authority shall, in the performance of its functions under these Regulations, have regard to any guidelines published by the Minister under subarticle (1).

Fees

15. (1) A public authority may charge a fee when it makes available environmental information in accordance with these Regulations (including when it makes such information available following an appeal to the Commissioner under article 12), provided that such fee shall be reasonable having regard to the Directive.

(2) Where a public authority charges a fee pursuant to sub-article (1), it shall make available to the public a list of fees charged, information on how they are calculated and the circumstances under which they may be waived.

(3) Subject to sub-article (4), a fee of €150 shall be charged for making an appeal to the Commissioner under article 12.

(4) In respect of an appeal pursuant to article 12 by—

(a) a holder of a medical card,

(b) a dependant of a holder of a medical card, or

(c) a person referred to in article 12(3)(b),

the fee charged shall be €50.