

# FREEDOM OF INFORMATION ACT 2000

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part VIII: Miscellaneous and supplemental

##### *Section 74: Power to make provision relating to environmental information.*

223. This section provides that the Secretary of State may make regulations to implement the United Nations Economic Commission for Europe (UNECE) Convention on access to information, public participation in decision-making and access to justice in environmental matters, which the UK signed at Aarhus in 1998 (the Aarhus Convention), insofar as the Convention relates to the provision of access to environmental information.
224. The regulations will form a free-standing regime, giving access to environmental information. Section 39 exempts environmental information which is available under the regulations from the main provisions of the Act.
225. The regulations made under the power contained in this section will replace the current [Environmental Information Regulations 1992 \(SI 1992/3240\)](#), as amended by the [Environmental Information \(Amendment\) Regulations 1998 \(SI 1998/1447\)](#). These regulations implement Directive 90/313/EEC on the Freedom of Access to Information in the Environment.
226. *Subsection (3)* gives the Secretary of State power to make regulations to implement those articles of the Aarhus Convention which relate to the provision of access to environmental information, or for the purpose of dealing with matters arising from them, or amendments to them.
227. *Subsection (4)* permits the regulations to include provisions enabling charges to be made in connection with the disclosure of environmental information, and to give effect to any obligations the regulations may impose.
228. *Subsection (4)* also permits certain provisions of the Act to be applied to the regulations, with modifications. The regulations may make provision for a code of practice to apply to bodies subject to the regulations and for the application of the Information Commissioner's powers under sections 47 and 48, as modified if necessary, to it. The regulations may also apply, with modifications, to Parts IV and V of the Act (dealing with enforcement and appeals), so that the Information Commissioner enforces the regulations and, as set out in Part V, with the Tribunal, considers any appeals relating to applications for environmental information under the regulations. The regulations may also make provision for any transitional or consequential provisions that are appropriate.
229. *Subsection (5)* ensures that the regulations made under the section to implement the Aarhus Convention do not apply to the Scottish bodies referred to in section 80.